

1 **TITLE __—FOREIGN TAX**
2 **PROVISIONS**
3 **[OPTION Y]**

TITLE __—FOREIGN TAX PROVISIONS

[OPTION Y]

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1 **Subtitle A—Reform of Taxation of**
2 **Income Earned by Controlled**
3 **Foreign Corporations**

4 **PART I—GENERAL PROVISIONS**

5 **Subpart A—Participation Exemption System for**
6 **Taxation of Foreign Income**

7 **SEC. __01. DEDUCTION FOR DIVIDENDS RECEIVED BY DO-**
8 **MESTIC CORPORATIONS FROM CERTAIN FOR-**
9 **EIGN CORPORATIONS.**

10 (a) ALLOWANCE OF DEDUCTION.—Part VIII of sub-
11 chapter B of chapter 1 is amended by inserting after sec-
12 tion 245 the following new section:

13 **“SEC. 245A. DIVIDENDS RECEIVED BY DOMESTIC CORPORA-**
14 **TIONS FROM CERTAIN FOREIGN CORPORA-**
15 **TIONS.**

16 “(a) IN GENERAL.—In the case of any dividend re-
17 ceived from a controlled foreign corporation by a domestic
18 corporation which is a United States shareholder with re-
19 spect to such controlled foreign corporation, there shall be
20 allowed as a deduction an amount equal to 100 percent
21 of the foreign-source portion of the dividend.

22 “(b) FOREIGN-SOURCE PORTION OF DIVIDENDS.—
23 For purposes of this section—

1 “(1) IN GENERAL.—The foreign-source portion
2 of any dividend is an amount which bears the same
3 ratio to such dividend as—

4 “(A) the undistributed foreign earnings,
5 bears to

6 “(B) the undistributed earnings.

7 “(2) UNDISTRIBUTED EARNINGS.—The term
8 ‘undistributed earnings’ has the meaning given such
9 term by section 245(a)(4).

10 “(3) UNDISTRIBUTED FOREIGN EARNINGS.—
11 The term ‘undistributed foreign earnings’ means the
12 portion of the undistributed earnings which is attrib-
13 utable to neither—

14 “(A) income effectively connected with the
15 conduct of a trade or business within the
16 United States and subject to tax under this
17 chapter, nor

18 “(B) any dividend received directly or indi-
19 rectly from a domestic corporation.

20 “(c) DISALLOWANCE OF FOREIGN TAX CREDIT,
21 ETC.—For disallowance of credit and deduction for foreign
22 income taxes imposed with respect to income of a con-
23 trolled foreign corporation not treated as subpart F in-
24 come, see section 901(n).

25 “(d) SPECIAL RULES FOR HYBRID DIVIDENDS.—

1 “(1) IN GENERAL.—Subsection (a) shall not
2 apply to any dividend received by a United States
3 shareholder from a controlled foreign corporation if
4 the dividend is a hybrid dividend.

5 “(2) HYBRID DIVIDENDS OF TIERED CON-
6 TROLLED FOREIGN CORPORATIONS.—For treatment
7 of hybrid dividends from one controlled foreign cor-
8 poration to another controlled foreign corporation
9 which is a member of the same expanded affiliated
10 group (as defined in section 7874(c)(1)) as the cor-
11 poration, see section 952(e)(2).

12 “(3) HYBRID DIVIDEND.—The term ‘hybrid
13 dividend’ means an amount received from a con-
14 trolled foreign corporation—

15 “(A) which is treated as a dividend for
16 purposes of this title, and

17 “(B) for which a deduction (or similar tax
18 benefit) is allowable to the controlled foreign
19 corporation under the laws of any foreign coun-
20 try with respect to which the controlled foreign
21 corporation is a resident for purposes of the
22 country’s income tax laws.

23 “(e) DEFINITIONS.—For purposes of this section—

1 “(1) UNITED STATES SHAREHOLDER.—The
2 term ‘United States shareholder’ has the meaning
3 given such term in section 951(b).

4 “(2) CONTROLLED FOREIGN CORPORATION.—
5 The term ‘controlled foreign corporation’ has the
6 meaning given such term in section 957(a).

7 “(f) REGULATIONS.—The Secretary shall prescribe
8 such regulations as may be necessary or appropriate to
9 carry out the provisions of this section.”.

10 (b) APPLICATION OF HOLDING PERIOD REQUIRE-
11 MENT.—Subsection (c) of section 246 is amended by add-
12 ing at the end the following new paragraph:

13 “(5) SPECIAL RULES FOR QUALIFIED FOREIGN-
14 SOURCE PORTION OF DIVIDENDS RECEIVED FROM
15 CONTROLLED FOREIGN CORPORATIONS.—

16 “(A) IN GENERAL.—No deduction shall be
17 allowed under section 245A in respect of any
18 dividend on any share of stock—

19 “(i) which is held by the taxpayer for
20 365 days or less during the 731-day period
21 beginning on the date which is 365 days
22 before the date on which such dividend is
23 paid, or

24 “(ii) to the extent the taxpayer is
25 under an obligation (whether pursuant to a

1 short sale or otherwise) to make related
2 payments with respect to positions in sub-
3 stantially similar or related property.

4 “(B) STATUS MUST BE MAINTAINED DUR-
5 ING HOLDING PERIOD.—For purposes of section
6 245A, the holding period requirement of clause
7 (i) of subparagraph (A) shall be treated as met
8 only if, with respect to periods during which the
9 controlled foreign corporation is in existence—

10 “(i) the controlled foreign corporation
11 referred to in section 245A(a) is a con-
12 trolled foreign corporation at all times dur-
13 ing such period, and

14 “(ii) the taxpayer is a United States
15 shareholder (as defined in section
16 245A(e)(1)) with respect to such controlled
17 foreign corporation at all times during
18 such period.”.

19 (c) APPLICATION OF RULES GENERALLY APPLICA-
20 BLE TO DEDUCTIONS FOR DIVIDENDS RECEIVED.—

21 (1) TREATMENT OF DIVIDENDS FROM TAX-EX-
22 EMPT CORPORATIONS.—Paragraph (1) of section
23 246(a) is amended by striking “and 245” and in-
24 serting “245, and 245A”.

1 (2) ASSETS GENERATING TAX-EXEMPT PORTION
2 OF DIVIDEND NOT TAKEN INTO ACCOUNT IN ALLO-
3 CATING AND APPORTIONING DEDUCTIBLE EX-
4 PENSES.—Paragraph (3) of section 864(e) is amend-
5 ed by striking “or 245(a)” and inserting “, 245(a),
6 or 245A”.

7 (3) COORDINATION WITH SECTION 1059.—Sub-
8 paragraph (B) of section 1059(b)(2) is amended by
9 striking “or 245” and inserting “245, or 245A”.

10 (d) CONFORMING AMENDMENTS.—

11 (1) Clause (vi) of section 56(g)(4)(C) is amend-
12 ed by inserting “245A or” before “965”.

13 (2) The table of sections for part VIII of sub-
14 chapter B of chapter 1 is amended by inserting after
15 the item relating to section 245 the following new
16 item:

 “Sec. 245A. Dividends received by domestic corporations from certain foreign
 corporations.”.

17 (e) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to taxable years of foreign corpora-
19 tions beginning after December 31, 2014, and to taxable
20 years of United States shareholders with or within which
21 such taxable years of foreign corporations end.

1 **SEC. _02. APPLICATION OF DIVIDENDS RECEIVED DEDUC-**
2 **TION TO CERTAIN SALES AND EXCHANGES**
3 **OF STOCK.**

4 (a) SALES BY UNITED STATES PERSONS OF STOCK
5 IN CFC.—Section 1248 is amended by redesignating sub-
6 section (j) as subsection (k) and by inserting after sub-
7 section (i) the following new subsection:

8 “(j) COORDINATION WITH DIVIDENDS RECEIVED
9 DEDUCTION.—

10 “(1) IN GENERAL.—In the case of the sale or
11 exchange by a domestic corporation of stock in a for-
12 eign corporation held for 1 year or more, any
13 amount received by the domestic corporation which
14 is treated as a dividend by reason of this section
15 shall be treated as a dividend for purposes of apply-
16 ing section 245A.

17 “(2) LOSSES DISALLOWED.—If a domestic cor-
18 poration—

19 “(A) sells or exchanges stock in a foreign
20 corporation and such sale or exchange is in a
21 taxable year of the domestic corporation with or
22 within which a taxable year of the foreign cor-
23 poration beginning after December 31, 2014,
24 ends, and

1 “(B) met, immediately before such sale or
2 exchange, the ownership requirements of sub-
3 section (a)(2) with respect to such stock,
4 no deduction shall be allowed to the domestic cor-
5 poration with respect to any loss from the sale or ex-
6 change.”.

7 (b) SALE BY A CFC OF A LOWER TIER CFC.—Sec-
8 tion 964(e) is amended by adding at the end the following
9 new paragraph:

10 “(4) EFFECT OF LOSS ON EARNINGS AND
11 PROFITS.—For purposes of this title, if, for any tax-
12 able year of a controlled foreign corporation begin-
13 ning after December 31, 2014—

14 “(A) there is a sale or exchange by such
15 controlled foreign corporation of stock in an-
16 other foreign corporation, and

17 “(B) section 1248(j)(2) would apply if
18 such controlled foreign corporation were a
19 United States shareholder,

20 then the earnings and profits of the selling con-
21 trolled foreign corporation shall not be reduced by
22 reason of any loss from such sale or exchange.”.

23 (c) EFFECTIVE DATE.—

24 (1) IN GENERAL.—Except as provided in para-
25 graph (2), the amendments made by this section

1 shall apply to sales and exchanges after December
2 31, 2014.

3 (2) TRANSITION RULE.—The amendments
4 made by this section shall not apply to the sale or
5 exchange of stock of a foreign corporation in exist-
6 ence on December 31, 2014, if such sale or exchange
7 is before the beginning of the first taxable year of
8 such foreign corporation beginning after December
9 31, 2014.

10 **Subpart B—Reform of Subpart F Inclusion**

11 **SEC. __03. INCLUSION OF UNITED STATES RELATED IN-**
12 **COME IN SUBPART F INCOME.**

13 (a) IN GENERAL.—Section 952(a) is amended by re-
14 designating paragraphs (3), (4), and (5) as paragraphs
15 (4), (5), and (6), respectively, and by inserting after para-
16 graph (2) the following new paragraph:

17 “(3) United States related income (as defined
18 in section 955),”.

19 (b) UNITED STATES RELATED INCOME.—Section
20 955 is amended to read as follows:

21 **“SEC. 955. UNITED STATES RELATED INCOME.**

22 **“(a) UNITED STATES RELATED INCOME.—**

23 **“(1) IN GENERAL.—**For purposes of section
24 952(a)(3), the term ‘United States related income’
25 means, with respect to any controlled foreign cor-

1 poration for any taxable year, the sum of the cor-
2 poration's—

3 “(A) imported property income, and

4 “(B) United States services income.

5 “(2) EXCEPTION.—Such term shall not include
6 any income which is income of the corporation taken
7 into account under paragraphs (1), (2), (4), (5), or
8 (6) of section 952(a).

9 “(b) IMPORTED PROPERTY INCOME.—

10 “(1) IN GENERAL.—For purposes of this sec-
11 tion, the term ‘imported property income’ means in-
12 come (whether in the form of profits, commissions,
13 fees, or otherwise) derived in connection with—

14 “(A) manufacturing, producing, growing,
15 or extracting imported property,

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

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

20 “(2) IMPORTED PROPERTY.—For purposes of
21 this subsection—

22 “(A) IN GENERAL.—Except as otherwise
23 provided in this paragraph, the term ‘imported
24 property’ means property which is imported

1 into the United States by the controlled foreign
2 corporation or a related person.

3 “(B) IMPORTED PROPERTY INCLUDES CER-
4 TAIN PROPERTY IMPORTED BY OTHER PER-
5 SONS.—The term ‘imported property’ includes
6 any property sold, exchanged, or otherwise dis-
7 posed of to any person if, when such property
8 was sold, exchanged or otherwise disposed of to
9 such person, it was reasonable for the con-
10 trolled foreign corporation or a related person
11 to expect that—

12 “(i) such property would be imported
13 into the United States, or

14 “(ii) such property would be used in
15 the manufacture or production of, or as a
16 component part in, other property which
17 would be imported into the United States.

18 “(C) CHAIN OF RELATED PERSONS.—If—

19 “(i) property is ultimately imported
20 into the United States, and

21 “(ii) all sales, exchanges, or disposi-
22 tions of such property (or of the other
23 property described in subparagraph
24 (B)(ii)) before the sale for use, consump-

1 tion, or disposition in the United States
2 are between related persons,
3 then, for purposes of subparagraph (B), there
4 shall be deemed to have been a reasonable ex-
5 pectation that the property (or the other prop-
6 erty described in subparagraph (B)(ii)) would
7 be imported into the United States.

8 “(D) EXCEPTION FOR PROPERTY SUBSE-
9 QUENTLY EXPORTED.—The term ‘imported
10 property’ does not include any property which is
11 imported into the United States and which—

12 “(i) before substantial use in the
13 United States, is sold, leased, rented, or li-
14 censed by the controlled foreign corpora-
15 tion or a related person for direct use, con-
16 sumption, or disposition outside the United
17 States, or

18 “(ii) is used by the controlled foreign
19 corporation or a related person as a com-
20 ponent in other property which is so sold,
21 leased, rented, or licensed.

22 “(3) DEFINITION OF IMPORTED.—For purposes
23 of this subsection, the term ‘imported’ means the
24 bringing of property into the United States for con-
25 sumption or use within the United States. Such

1 term includes any grant of the right to use intan-
2 gible property (as defined in section 936(h)(3)(B)),
3 tangible property, or real property in the United
4 States.

5 “(4) RELATED PERSON.—For purposes of this
6 subsection, the term ‘related person’ has the mean-
7 ing given such term in section 954(b).

8 “(c) UNITED STATES SERVICES INCOME.—For pur-
9 poses of this section—

10 “(1) IN GENERAL.—The term ‘United States
11 services income’ means income which is derived in
12 connection with services (including income derived in
13 connection with insurance, reinsurance, annuity con-
14 tracts, banking, financing, or a similar business)
15 provided with respect to persons or property located
16 within the United States (or, in the case of insur-
17 ance or reinsurance services, with respect to United
18 States risks).

19 “(2) EXCLUSION.—Such term does not include
20 income which is imported property income.”.

21 (c) CONFORMING AMENDMENTS.—

22 (1) Section 964(b) is amended by striking “sec-
23 tions 952, 955, and 956” and inserting “sections
24 952 and 956”.

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

3 (B) Section 865(e)(2)(A) is amended by strik-
4 ing the last sentence.

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

8 (3) The table of sections for subpart F of part
9 III of subchapter N is amended by striking the item
10 relating to section 955 and inserting the following:

“Sec. 955. United States related income.”.

11 (d) **EFFECTIVE DATE.**—The amendments made by
12 this section shall apply to taxable years of foreign corpora-
13 tions beginning after December 31, 2014, and to taxable
14 years of United States shareholders with or within which
15 such taxable years of foreign corporations end.

16 **SEC. __04. LOW-TAXED INCOME TREATED AS SUBPART F IN-**
17 **COME.**

18 (a) **TREATMENT AS SUBPART F INCOME.**—

19 (1) **IN GENERAL.**—Subsection (a) of section
20 952, as amended by section __03, is amended by re-
21 designating paragraphs (4), (5), and (6) as para-
22 graphs (5), (6), and (7), respectively, and by insert-
23 ing after paragraph (3) the following new para-
24 graph:

1 “(4) low-taxed income (as defined in section
2 956),”.

3 (2) LOW-TAXED INCOME.—Section 956 is
4 amended to read as follows:

5 **“SEC. 956. LOW-TAXED INCOME.**

6 “(a) IN GENERAL.—For purposes of this subpart, the
7 term ‘low-taxed income’ means, with respect to any tax-
8 able year of a controlled foreign corporation, any item of
9 income (other than any item of income which is otherwise
10 taken into account under paragraph (1), (2), (3), (5), (6),
11 or (7) of section 952(a)) which is subject to an effective
12 rate of foreign income tax (as defined in section 960(d))
13 of less than **【80】** percent of the maximum rate specified
14 in section 11(b).

15 “(b) RULES RELATED TO DETERMINATION OF EF-
16 FECTIVE RATE OF FOREIGN INCOME TAX.—For purposes
17 of subsection (a)—

18 “(1) IN GENERAL.—Except as provided in this
19 subsection, in determining the effective rate of for-
20 eign income tax with respect to any item of in-
21 come—

22 “(A) such effective rate shall be deter-
23 mined under United States tax principles, and

1 “(B) only taxes and other deductions re-
2 lated to such item of income shall be taken into
3 account.

4 “(2) SPECIAL RULE FOR TREATMENT OF
5 LOSSES.—For purposes of determining the effective
6 rate of foreign income tax imposed with respect to
7 any item of income for any taxable year, the prin-
8 ciples of section 172 shall apply except that any net
9 operating loss carryback to such taxable year shall
10 not be taken into account.”.

11 (3) CONFORMING AMENDMENTS.—

12 (A) Section 864(d)(8) is amended by strik-
13 ing “or section 956(b)(3)”.

14 (B) Section 955, as amended by section
15 __03, is amended by striking “paragraphs (1),
16 (2), (4), (5), or (6) of section 952(a)” and in-
17 serting “paragraphs (1), (2), (5), (6), or (7) of
18 section 952(a)”.

19 (C) Section 958(b) is amended—

20 (i) by striking “956(c)(2),” before
21 “and 957”,

22 (ii) by striking “to treat the stock of
23 a domestic corporation as owned by a
24 United States shareholder of the controlled

1 foreign corporation for purposes of section
2 956(e)(2),”, and

3 (iii) by striking the last sentence.

4 (D) Section 964(b), as amended by section
5 __03, is amended by striking “sections 952 and
6 956” and inserting “section 952”.

7 (E) The table of sections for subpart F of
8 part III of subchapter N is amended by striking
9 the item relating to section 956 and inserting
10 the following:

“Sec. 956. Low-taxed income.”.

11 (b) PARTIAL DEDUCTION FOR LOW-TAXED IN-
12 COME.—

13 (1) IN GENERAL.—Part VI of subchapter B of
14 chapter 1 is amended by adding at the end the fol-
15 lowing new section:

16 **“SEC. 200. PORTION OF LOW-TAXED INCOME.**

17 “(a) IN GENERAL.—In the case of any taxpayer who
18 is a United States shareholder of a controlled foreign cor-
19 poration, there shall be allowed as a deduction for the tax-
20 able year an amount equal to **【20】** percent of the amounts
21 which—

22 “(1) are included in gross income for such tax-
23 able year under section 951(a) or section 78, and

24 “(2) are attributable to low-taxed income (as
25 defined in section 956).

1 “(b) DEFINITIONS.—For purposes of this section—

2 “(1) UNITED STATES SHAREHOLDER.—The
3 term ‘United States shareholder’ has the meaning
4 given such term in section 951(b).

5 “(2) CONTROLLED FOREIGN CORPORATION.—
6 The term ‘controlled foreign corporation’ has the
7 meaning given such term in section 957(a).”.

8 (2) DEDUCTION TREATED AS ABOVE THE
9 LINE.—Section 62(a) is amended by inserting after
10 paragraph (21) the following new paragraph:

11 “(22) LOW-TAXED INCOME.—The deduction al-
12 lowed by section 200.”.

13 (3) CLERICAL AMENDMENT.—The table of sec-
14 tions for part VI of subchapter B of chapter 1 is
15 amended by adding at the end the following new
16 item:

“Sec. 200. Portion of low-taxed income.”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to taxable years of foreign corpora-
19 tions beginning after December 31, 2014, and to taxable
20 years of United States shareholders with or within which
21 such taxable years of foreign corporations end.

1 **SEC. 05. REPEAL OF FOREIGN BASE COMPANY SALES,**
2 **SERVICES, AND OIL RELATED INCOME; MODI-**
3 **FICATION OF FOREIGN PERSONAL HOLDING**
4 **COMPANY INCOME.**

5 (a) IN GENERAL.—Paragraph (2) of section 952(a)
6 is amended to read as follows:

7 “(2) the foreign personal holding company in-
8 come (as determined under section 954),”.

9 (b) FOREIGN PERSONAL HOLDING INCOME.—Section
10 954 is amended to read as follows:

11 **“SEC. 954. FOREIGN PERSONAL HOLDING COMPANY IN-**
12 **COME.**

13 “(a) FOREIGN PERSONAL HOLDING COMPANY IN-
14 COME.—

15 “(1) IN GENERAL.—For purposes of section
16 952(a)(2), the term ‘foreign personal holding in-
17 come’ means the portion of the gross income which
18 consists of:

19 “(A) DIVIDENDS, ETC.—Dividends, inter-
20 est, royalties, rents, and annuities.

21 “(B) CERTAIN PROPERTY TRANS-
22 ACTIONS.—The excess of gains over losses from
23 the sale or exchange of property—

24 “(i) which gives rise to income de-
25 scribed in subparagraph (A) (after applica-
26 tion of paragraph (2)(A)) other than prop-

1 property described in paragraph (1), (2),
2 or (8) of section 1221(a), or

3 “(iii) are foreign currency gains or
4 losses (as defined in section 988(b)) attrib-
5 utable to any section 988 transactions.

6 “(D) FOREIGN CURRENCY GAINS.—The ex-
7 cess of foreign currency gains over foreign cur-
8 rency losses (as defined in section 988(b)) at-
9 tributable to any section 988 transactions. This
10 subparagraph shall not apply in the case of any
11 transaction, other than a borrowing, directly re-
12 lated to the business needs of the controlled for-
13 eign corporation.

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

18 “(F) INCOME FROM NOTIONAL PRINCIPAL
19 CONTRACTS.—

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

22 “(ii) COORDINATION WITH OTHER
23 CATEGORIES OF FOREIGN PERSONAL
24 HOLDING COMPANY INCOME.—Any item of
25 income, gain, deduction, or loss from a no-

1 tional principal contract entered into for
2 purposes of hedging any item described in
3 any preceding subparagraph shall not be
4 taken into account for purposes of this
5 subparagraph but shall be taken into ac-
6 count under such other subparagraph.

7 “(G) PAYMENTS IN LIEU OF DIVIDENDS.—
8 Payments in lieu of dividends which are made
9 pursuant to an agreement to which section
10 1058 applies.

11 “(H) PERSONAL SERVICE CONTRACTS.—

12 “(i) Amounts received under a con-
13 tract under which the corporation is to fur-
14 nish personal services if—

15 “(I) some person other than the
16 corporation has the right to designate
17 (by name or by description) the indi-
18 vidual who is to perform the services,
19 or

20 “(II) the individual who is to per-
21 form the services is designated (by
22 name or by description) in the con-
23 tract, and

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

1 This subparagraph shall apply with respect to
2 amounts received for services under a particular
3 contract only if at some time during the taxable
4 year 25 percent or more in value of the out-
5 standing stock of the corporation is owned, di-
6 rectly or indirectly, by or for the individual who
7 has performed, is to perform, or may be des-
8 ignated (by name or by description) as the one
9 to perform, such services.

10 “(2) EXCEPTION FOR CERTAIN AMOUNTS.—

11 “(A) RENTS AND ROYALTIES DERIVED IN
12 ACTIVE BUSINESS.—Foreign personal holding
13 company income shall not include rents and
14 royalties which are derived in the active conduct
15 of a trade or business and which are received
16 from a person other than a related person. For
17 purposes of the preceding sentence, rents de-
18 rived from leasing an aircraft or vessel in for-
19 eign commerce shall not fail to be treated as de-
20 rived in the active conduct of a trade or busi-
21 ness if, as determined under regulations pre-
22 scribed by the Secretary, the active leasing ex-
23 penses are not less than 10 percent of the profit
24 on the lease.

1 “(B) EXCEPTION FOR DEALERS.—Except
2 as provided by regulations, in the case of a reg-
3 ular dealer in property which is property de-
4 scribed in paragraph (1)(B), forward contracts,
5 option contracts, or similar financial instru-
6 ments (including notional principal contracts
7 and all instruments referenced to commodities),
8 there shall not be taken into account in com-
9 puting foreign personal holding company in-
10 come any item of income, gain, deduction, or
11 loss from any transaction (including hedging
12 transactions and transactions involving physical
13 settlement) entered into in the ordinary course
14 of such dealer’s trade or business as such a
15 dealer.

16 “(3) CERTAIN INCOME RECEIVED FROM RE-
17 LATED PERSONS.—

18 “(A) IN GENERAL.—Except as provided in
19 subparagraph (B), the term ‘foreign personal
20 holding company income’ does not include—

21 “(i) dividends and interest received
22 from a related person which (I) is a cor-
23 poration which is a resident for purposes
24 of the income tax laws of the same foreign
25 country with respect to which the con-

1 trolled foreign corporation is a resident for
2 such purposes, and (II) has a substantial
3 part of its assets used in its trade or busi-
4 ness located in such same foreign country,
5 and

6 “(ii) rents and royalties received from
7 a corporation which is a related person for
8 the use of, or the privilege of using, prop-
9 erty within the country under the laws of
10 which the controlled foreign corporation is
11 a resident for purposes of the country’s in-
12 come tax laws.

13 To the extent provided in regulations, payments
14 made by a partnership with 1 or more corporate
15 partners shall be treated as made by such cor-
16 porate partners in proportion to their respective
17 interests in the partnership.

18 “(B) EXCEPTION NOT TO APPLY TO ITEMS
19 WHICH REDUCE SUBPART F INCOME.—Subpara-
20 graph (A) shall not apply in the case of any in-
21 terest, rent, or royalty to the extent such inter-
22 est, rent, or royalty reduces the payor’s subpart
23 F income or creates (or increases) a deficit
24 which under section 952(c) may reduce the sub-

1 part F income of the payor or another con-
2 trolled foreign corporation.

3 “(C) EXCEPTION FOR CERTAIN DIVI-
4 DENDS.—Subparagraph (A)(i) shall not apply
5 to any dividend with respect to any stock which
6 is attributable to earnings and profits of the
7 distributing corporation accumulated during
8 any period during which the person receiving
9 such dividend did not hold such stock either di-
10 rectly, or indirectly through a chain of one or
11 more subsidiaries each of which meets the re-
12 quirements of subparagraph (A)(i).

13 “(4) LOOK-THRU RULE FOR CERTAIN PARTNER-
14 SHIP SALES.—

15 “(A) IN GENERAL.—In the case of any
16 sale by a controlled foreign corporation of an
17 interest in a partnership with respect to which
18 such corporation is a 25-percent owner, gain or
19 loss on such sale shall be treated as being de-
20 scribed in paragraph (1)(B)(ii) in the amount
21 which bears the same ratio to the amount of
22 such gain or loss as the controlled foreign cor-
23 poration's distributable share of subpart F in-
24 come (determined without regard to the alloca-
25 tion of any deductions under section 952(f)) al-

1 located from the partnership over the 3 taxable
2 years preceding the year of the sale bears to the
3 controlled foreign corporation's distributable
4 share of gross income from the partnership over
5 such period. The Secretary shall prescribe such
6 regulations as may be appropriate to prevent
7 abuse of the purposes of this paragraph, includ-
8 ing regulations providing for the coordination of
9 this paragraph with the provisions of sub-
10 chapter K.

11 “(B) 25-PERCENT OWNER.—For purposes
12 of this paragraph, the term ‘25-percent owner’
13 means a controlled foreign corporation which
14 owns directly 25 percent or more of the capital
15 or profits interest in a partnership. For pur-
16 poses of the preceding sentence, if a controlled
17 foreign corporation is a shareholder or partner
18 of a corporation or partnership, the controlled
19 foreign corporation shall be treated as owning
20 directly its proportionate share of any such cap-
21 ital or profits interest held directly or indirectly
22 by such corporation or partnership. If a con-
23 trolled foreign corporation is treated as owning
24 a capital or profits interest in a partnership
25 under constructive ownership rules similar to

1 the rules of section 958(b), the controlled for-
2 eign corporation shall be treated as owning
3 such interest directly for purposes of this sub-
4 paragraph.

5 “(5) DEFINITION AND SPECIAL RULES RELAT-
6 ING TO COMMODITY TRANSACTIONS.—

7 “(A) COMMODITY HEDGING TRANS-
8 ACTIONS.—For purposes of paragraph
9 (1)(C)(i), the term ‘commodity hedging trans-
10 action’ means any transaction with respect to a
11 commodity if such transaction—

12 “(i) is a hedging transaction as de-
13 fined in section 1221(b)(2), determined—

14 “(I) without regard to subpara-
15 graph (A)(ii) thereof,

16 “(II) by applying subparagraph
17 (A)(i) thereof by substituting ‘ordi-
18 nary property or property described in
19 section 1231(b)’ for ‘ordinary prop-
20 erty’, and

21 “(III) by substituting ‘controlled
22 foreign corporation’ for ‘taxpayer’
23 each place it appears, and

24 “(ii) is clearly identified as such in ac-
25 cordance with section 1221(a)(7).

1 “(B) TREATMENT OF DEALER ACTIVITIES
2 UNDER PARAGRAPH (1)(C).—Commodities with
3 respect to which gains and losses are not taken
4 into account under paragraph (2)(B) in com-
5 puting a controlled foreign corporation’s foreign
6 personal holding company income shall not be
7 taken into account in applying the substantially
8 all test under paragraph (1)(C)(ii) to such cor-
9 poration.

10 “(C) REGULATIONS.—The Secretary shall
11 prescribe such regulations as are appropriate to
12 carry out the purposes of paragraph (1)(C) in
13 the case of transactions involving related per-
14 sons.

15 “(b) RELATED PERSON DEFINED.—For purposes of
16 this section, a person is a related person with respect to
17 a controlled foreign corporation, if—

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

21 “(2) such person is a corporation, partnership,
22 trust, or estate which is controlled by the same per-
23 son or persons which control the controlled foreign
24 corporation.

1 For purposes of the preceding sentence, control means,
2 with respect to a corporation, the ownership, directly or
3 indirectly, of stock possessing more than 50 percent of the
4 total voting power of all classes of stock entitled to vote
5 or of the total value of stock of such corporation. In the
6 case of a partnership, trust, or estate, control means the
7 ownership, directly or indirectly, of more than 50 percent
8 (by value) of the beneficial interests in such partnership,
9 trust, or estate. For purposes of this subsection, rules
10 similar to the rules of section 958 shall apply.

11 “(c) SPECIAL RULE FOR INCOME DERIVED IN THE
12 ACTIVE CONDUCT OF BANKING, FINANCING, OR SIMILAR
13 BUSINESSES.—

14 “(1) IN GENERAL.—For purposes of subsection
15 (a)(1), foreign personal holding company income
16 shall not include qualified banking or financing in-
17 come of an eligible controlled foreign corporation.

18 “(2) ELIGIBLE CONTROLLED FOREIGN COR-
19 PORATION.—For purposes of this subsection, the
20 term ‘eligible controlled foreign corporation’ means
21 any controlled foreign corporation if—

22 “(A) more than 80 percent of the gross in-
23 come of the controlled foreign corporation is de-
24 rived directly from the active and regular con-
25 duct of a lending, finance, or financial services

1 business from transactions with customers
2 which are located outside the United States and
3 are not related persons, or

4 “(B) it is a regulated financial institution.

5 “(3) QUALIFIED BANKING OR FINANCING IN-
6 COME.—For purposes of this subsection—

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

11 “(i) is derived in the active conduct of
12 a banking, financing, or similar business
13 by such eligible controlled foreign corpora-
14 tion,

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

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

20 “(II) substantially all of the ac-
21 tivities in connection with which are
22 conducted directly by the corporation
23 in its home country, and

1 “(iii) is treated as earned by such cor-
2 poration in its home country for purposes
3 of such country’s tax laws.

4 “(B) INCOME DERIVED FROM CUSTOMERS
5 TO INCLUDE CERTAIN INVESTMENT INCOME.—
6 For purposes of subparagraph (A), in the case
7 of a regulated financial institution, income de-
8 rived from customers includes income derived
9 from—

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

12 “(ii) deposits placed with the central
13 bank (or equivalent thereof) in the cor-
14 poration’s home country, and

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

17 “(C) SUBSTANTIAL ACTIVITY REQUIRE-
18 MENT FOR CROSS BORDER INCOME.—The term
19 ‘qualified banking or financing income’ shall
20 not include income derived from 1 or more
21 transactions with customers located in a coun-
22 try other than the home country of the eligible
23 controlled foreign corporation unless such cor-
24 poration conducts substantial activity with re-

1 spect to a banking, financing, or similar busi-
2 ness in its home country.

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

9 “(i) the related person is a resident
10 subject to tax under the laws of the home
11 country of the corporation to which sub-
12 paragraph (A)(ii)(II) is being applied,

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

15 “(iii) the related person is com-
16 pensated on an arm’s-length basis for the
17 performance of the activity by its employ-
18 ees and such compensation is treated as
19 earned by such person in such home coun-
20 try for purposes of the home country’s tax
21 laws.

22 “(4) LENDING, FINANCE, OR FINANCIAL SERV-
23 ICES BUSINESS.—For purposes of this subsection,
24 except as provided in regulations, the term ‘lending,

1 finance, or financial services business' means the
2 business of—

3 “(A) making loans,

4 “(B) purchasing, selling, discounting, or
5 negotiating on a regular basis accounts receiv-
6 able, notes, or installment obligations,

7 “(C) engaging in leasing (including enter-
8 ing into leases and purchasing, servicing, and
9 disposing of leases and leased assets),

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

12 “(E) providing charge and credit card
13 services,

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

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

22 “(H) providing traveler's check and money
23 order services for customers,

24 “(I) providing correspondent bank services
25 for customers,

1 “(J) engaging in hedging activities directly
2 related to an activity described in any other
3 subparagraph of this paragraph,

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

6 “(L) providing financial, investment advi-
7 sory, or investment management services,

8 “(M) purchasing or selling stock, debt in-
9 struments, interest rate or currency futures, or
10 other securities or derivative financial products
11 (including notional principal contracts) from or
12 to customers and holding such stock, debt in-
13 struments, futures, or other securities or prod-
14 ucts as inventory for sale to customers, unless
15 such stock, debt instruments, futures, or other
16 securities or products are not held in a dealer
17 capacity,

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

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

24 “(i) the corporation rendering services
25 or making facilities available, or

1 “(ii) another corporation which is a
2 member of the same affiliated group (as
3 defined in section 1504, but determined
4 without regard to section 1504(b)(3)).

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

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

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

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

19 “(i) if a customer is a natural person,
20 the customer is considered to be located in
21 the country in which the customer is phys-
22 ically located when entering into the trans-
23 action, and

24 “(ii) if a customer is not a natural
25 person, the customer is considered to be lo-

1 cated in the country from which the cus-
2 tomer enters into the transaction.

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

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

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

16 “(ii) satisfies each of the following
17 conditions:

18 “(I) The corporation is directly
19 or indirectly wholly owned by a do-
20 mestic corporation that is a bank (as
21 defined in section 581) or a depository
22 institution holding company (as de-
23 fined in section 3(w)(1) of the Federal
24 Deposit Insurance Act (12 U.S.C.
25 1813(w)(1)).

1 “(II) The corporation is subject
2 to bank regulatory supervision in a ju-
3 risdiction the central bank of which
4 (or equivalent thereof) is a member of
5 the Basel Committee on Banking Su-
6 pervision.

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

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

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

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

19 “(ii) if any such unit is treated as an
20 eligible controlled foreign corporation after
21 application of clause (i), the qualified
22 banking or financing income of such unit
23 shall be treated as qualified banking or fi-
24 nancing income of the controlled foreign
25 corporation of which such unit is a part.

1 “(B) DETERMINATIONS MADE SEPA-
2 RATELY.—For purposes of the separate applica-
3 tion of this subsection to a controlled foreign
4 corporation and its qualified business units—

5 “(i) in the case of the controlled for-
6 eign corporation, only activities and items
7 of income, deduction, gain, or loss and ac-
8 tivities of such corporation not properly al-
9 locable or attributable to any qualified
10 business unit of such corporation shall be
11 taken into account, and

12 “(ii) in the case of a qualified busi-
13 ness unit, only activities and items of in-
14 come, deduction, gain, or loss and activities
15 properly allocable or attributable to such
16 unit shall be taken into account.

17 “(C) HOME COUNTRY.—For purposes of
18 this subsection, except as provided in regula-
19 tions, notwithstanding paragraph (5)(B), the
20 home country with respect to any qualified
21 business unit treated as a controlled foreign
22 corporation under subparagraph (A) shall be
23 the country in which such unit maintains its
24 principal office.

1 “(7) ANTI-ABUSE RULES.—For purposes of ap-
2 plying this subsection—

3 “(A) there shall be disregarded any item of
4 income, gain, loss, or deduction with respect to
5 any transaction or series of transactions one of
6 the principal purposes of which is qualifying in-
7 come or gain for the exclusion under this sec-
8 tion, including any transaction or series of
9 transactions a principal purpose of which is the
10 acceleration or deferral of any item in order to
11 claim the benefits of such exclusion through the
12 application of this subsection,

13 “(B) there shall be disregarded any item of
14 income, gain, loss, or deduction of an entity
15 which is not engaged in regular and continuous
16 transactions with customers which are not re-
17 lated persons,

18 “(C) there shall be disregarded any item of
19 income, gain, loss, or deduction with respect to
20 any transaction or series of transactions uti-
21 lizing, or doing business with—

22 “(i) one or more entities in order to
23 satisfy any home country requirement
24 under this subsection, or

1 “(ii) a special purpose entity or ar-
2 rangement, including a securitization, fi-
3 nancing, or similar entity or arrangement,
4 if one of the principal purposes of such trans-
5 action or series of transactions is qualifying in-
6 come or gain for the exclusion under this sub-
7 section, and

8 “(D) a related person, an officer, a direc-
9 tor, or an employee with respect to any con-
10 trolled foreign corporation which would other-
11 wise be treated as a customer of such corpora-
12 tion with respect to any transaction shall not be
13 so treated if a principal purpose of such trans-
14 action is to satisfy any requirement of this sub-
15 section.

16 “(8) REGULATIONS.—The Secretary shall pre-
17 scribe such regulations as may be necessary or ap-
18 propriate to carry out the purposes of this sub-
19 section and subsection (a)(1)(B)(i).

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

22 “(1) IN GENERAL.—For purposes of subsection
23 (a)(1), foreign personal holding company income
24 shall not include qualified insurance income of a
25 qualifying insurance company.

1 “(2) QUALIFIED INSURANCE INCOME.—The
2 term ‘qualified insurance income’ means income of a
3 qualifying insurance company which is—

4 “(A) received from a person other than a
5 related person and derived from the invest-
6 ments made by a qualifying insurance company
7 or a qualifying insurance company branch of its
8 reserves allocable to exempt contracts or of 80
9 percent of its unearned premiums from exempt
10 contracts (as both are determined in the man-
11 ner prescribed under paragraph (4)), or

12 “(B) received from a person other than a
13 related person and derived from investments
14 made by a qualifying insurance company or a
15 qualifying insurance company branch of an
16 amount of its assets allocable to exempt con-
17 tracts equal to—

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

23 “(ii) in the case of life insurance or
24 annuity contracts, 10 percent of the re-

1 serves described in subparagraph (A) for
2 such contracts.

3 “(3) PRINCIPLES FOR DETERMINING QUALI-
4 FIED INSURANCE INCOME.—Except as provided by
5 the Secretary, for purposes of subparagraphs (A)
6 and (B) of paragraph (2)—

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

13 “(B) income not allocable under subpara-
14 graph (A) shall be allocated ratably among con-
15 tracts not described in subparagraph (A).

16 “(4) METHODS FOR DETERMINING UNEARNED
17 PREMIUMS AND RESERVES.—For purposes of para-
18 graph (2)(A)—

19 “(A) PROPERTY AND CASUALTY CON-
20 TRACTS.—The unearned premiums and reserves
21 of a qualifying insurance company or a quali-
22 fying insurance company branch with respect to
23 property, casualty, or health insurance con-
24 tracts shall be determined using the same meth-
25 ods and interest rates which would be used if

1 such company or branch were subject to tax
2 under subchapter L, except that—

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

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

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

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

22 “(I) the net surrender value of
23 such contract (as defined in section
24 807(e)(1)(A)), or

1 “(II) the reserve determined
2 under paragraph (5).

3 “(ii) RULING REQUEST, ETC.—The
4 amount of the reserve under clause (i)
5 shall be the foreign statement reserve for
6 the contract (less any catastrophe, defi-
7 ciency, equalization, or similar reserves), if,
8 pursuant to a ruling request submitted by
9 the taxpayer or as provided in published
10 guidance, the Secretary determines that
11 the factors taken into account in deter-
12 mining the foreign statement reserve pro-
13 vide an appropriate means of measuring
14 income.

15 “(C) LIMITATION ON RESERVES.—In no
16 event shall the reserve determined under this
17 paragraph for any contract as of any time ex-
18 ceed the amount which would be taken into ac-
19 count with respect to such contract as of such
20 time in determining foreign statement reserves
21 (less any catastrophe, deficiency, equalization,
22 or similar reserves).

23 “(5) AMOUNT OF RESERVE.—The amount of
24 the reserve determined under this paragraph with
25 respect to any contract shall be determined in the

1 same manner as it would be determined if the quali-
2 fying insurance company or qualifying insurance
3 company branch were subject to tax under sub-
4 chapter L, except that in applying such sub-
5 chapter—

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

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

17 “(C) tables for mortality and morbidity
18 which reasonably reflect the current mortality
19 and morbidity risks in the company's or
20 branch's home country shall be substituted for
21 the mortality and morbidity tables otherwise
22 used for such subchapter.

23 The Secretary may provide that the interest rate
24 and mortality and morbidity tables of a qualifying
25 insurance company may be used for 1 or more of its

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

4 (3) Section 864(d)(7)(B) is amended by strik-
5 ing “foreign base company income (as defined in
6 section 954(a), determined without regard to section
7 954(b)(3)(A))” and inserting “foreign personal hold-
8 ing company income (as defined in section 954(a))”.

9 (4) Section 881(c)(5)(A)(iii) is amended by
10 striking “954(c)(3)(A)” and inserting
11 “954(a)(3)(A)”.

12 (5) Section 936(h)(5) is amended—

13 (A) by inserting “(as in effect on the day
14 before the enactment of the _____ Act of
15 2013)” after “section 954” in the last sentence
16 of subparagraph (B)(ii), and

17 (B) in subparagraph (F)(iv)(II)—

18 (i) by inserting “(as in effect on the
19 day before the enactment of the
20 _____ Act of 2013)” after “section
21 954”, and

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

1 (6) Paragraph (3) of section 953(b) is amended
2 by striking “954(i)” each place it appears and in-
3 serting “954(d)”.

4 (7) Section 964(e)(2) is amended by striking
5 “954(c)(3)(A)” and inserting “954(a)(3)(A)”.

6 (8) Section 1296(f)(2) is amended by striking
7 “section 954(c)(1)(A)” in subparagraph (A) and in-
8 serting “section 954(a)(1)(C)”.

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

11 “(b) PASSIVE INCOME.—The term ‘passive income’
12 means, with respect to any foreign corporation, any in-
13 come which would be foreign personal holding company
14 income as defined in section 954 if the foreign corporation
15 were a controlled foreign corporation.”.

16 (10) Section 2057(e)(2)(D)(ii) is amended by
17 striking “section 954(c)(1)” and inserting “section
18 954(a)(1)”.

19 (11) The following sections are amended by
20 striking “954(d)(3)” each place it appears and in-
21 serting “954(b)”:

22 (A) Section 861(c)(2)(B).

23 (B) Section 953(c)(6)(A).

24 (C) Section 958(b).

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

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

3 (F) Section 1471(e)(2).

4 (G) Section 3121(z)(2).

5 (12) The table of sections for subpart F of part
6 III of subchapter N is amended by striking the item
7 relating to section 954 and inserting the following:

“Sec. 954. Foreign personal holding company income.”.

8 (e) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to taxable years of foreign corpora-
10 tions beginning after December 31, 2014, and to taxable
11 years of United States shareholders with or within which
12 such taxable years of foreign corporations end.

13 **SEC. _06. MODIFICATION OF RULES RELATING TO INSUR-**
14 **ANCE INCOME.**

15 (a) EXEMPT INSURANCE INCOME.—Subsection (e) of
16 section 953 is amended to read as follows:

17 “(e) EXEMPT INSURANCE INCOME.—For purposes of
18 this section—

19 “(1) EXEMPT INSURANCE INCOME DEFINED.—

20 “(A) IN GENERAL.—The term ‘exempt in-
21 surance income’ means income derived by a
22 qualifying insurance company which—

23 “(i) is attributable to the issuing (or
24 reinsuring) of an exempt contract by such

1 company or a qualifying insurance com-
2 pany branch of such company, and

3 “(ii) is treated as earned by such com-
4 pany or branch in its home country for
5 purposes of such country’s tax laws.

6 “(B) EXCEPTION FOR CERTAIN ARRANGE-
7 MENTS.—Such term shall not include income
8 attributable to the issuing (or reinsuring) of an
9 exempt contract as the result of any arrange-
10 ment whereby another corporation receives a
11 substantially equal amount of premiums or
12 other consideration in respect of issuing (or re-
13 insuring) a contract which is not an exempt
14 contract.

15 “(C) DETERMINATIONS MADE SEPA-
16 RATELY.—For purposes of this subsection and
17 section 954(d), the exempt insurance income
18 and exempt contracts of a qualifying insurance
19 company or any qualifying insurance company
20 branch of such company shall be determined
21 separately for such company and each such
22 branch by taking into account—

23 “(i) in the case of the qualifying in-
24 surance company, only items of income, de-
25 duction, gain, or loss, and activities of such

1 company not properly allocable or attrib-
2 utable to any qualifying insurance com-
3 pany branch of such company, and

4 “(ii) in the case of a qualifying insur-
5 ance company branch, only items of in-
6 come, deduction, gain, or loss and activities
7 properly allocable or attributable to such
8 branch.

9 “(2) EXEMPT CONTRACT.—

10 “(A) IN GENERAL.—The term ‘exempt
11 contract’ means an insurance or annuity con-
12 tract issued or reinsured by a qualifying insur-
13 ance company or qualifying insurance company
14 branch in connection with property in, liability
15 arising out of activity in, or the lives or health
16 of residents of, a country other than the United
17 States.

18 “(B) MINIMUM NON-RELATED INCOME RE-
19 QUIRED.—No contract of a qualifying insurance
20 company or of a qualifying insurance company
21 branch shall be treated as an exempt contract
22 unless such company or branch derives more
23 than 30 percent of its net written premiums
24 from exempt contracts (determined without re-
25 gard to this subparagraph) with respect to

1 which no policyholder, insured, annuitant, or
2 beneficiary is a related person (as defined in
3 section 954(b)).

4 “(C) SUBSTANTIAL ACTIVITY REQUIRE-
5 MENTS.—A contract issued by a qualifying in-
6 surance company or qualifying insurance com-
7 pany branch shall not be treated as an exempt
8 contract unless such company or branch, as the
9 case may be—

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

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

17 “(3) QUALIFYING INSURANCE COMPANY.—

18 “(A) IN GENERAL.—The term ‘qualifying
19 insurance company’ means any controlled for-
20 eign corporation—

21 “(i) which—

22 “(I) is subject to regulation as an
23 insurance (or reinsurance) company
24 by its home country, and is licensed,
25 authorized, or regulated by the appli-

1 cable insurance regulatory body for its
2 home country to sell insurance, rein-
3 surance, or annuity contracts to per-
4 sons other than related persons (with-
5 in the meaning of section 954(b)) in
6 such home country, and

7 “(II) is engaged in the insurance
8 business and would be subject to tax
9 under subchapter L if it were a do-
10 mestic corporation,

11 “(ii) which derives more than 50 per-
12 cent of its aggregate net written premiums
13 from the issuance or reinsurance by such
14 controlled foreign corporation and each of
15 its qualifying insurance company branches
16 of contracts with respect to which no pol-
17 icyholder, insured, annuitant, or bene-
18 ficiary is a related person (as defined in
19 section 954(b)), except that in the case of
20 a branch, such premiums shall only be
21 taken into account to the extent such pre-
22 miums are treated as earned by such
23 branch in its home country for purposes of
24 such country's tax laws,

1 “(iii) more than 50 percent of the
2 gross receipts of which for the taxable
3 year—

4 “(I) consist of premiums for in-
5 surance or reinsurance in connection
6 with property, liability, or the lives or
7 health of individuals, and

8 “(II) are treated as earned by
9 such controlled foreign corporation in
10 its home country for purposes of such
11 country’s tax laws, and

12 “(iv) the applicable insurance liabil-
13 ities of which constitute more than 35 per-
14 cent of its total assets as reported on the
15 company’s applicable financial statement
16 for the year with which or in which the
17 taxable year ends.

18 “(B) APPLICABLE INSURANCE LIABIL-
19 ITIES.—For purposes of subparagraph (A)(iv),
20 the term ‘applicable insurance liabilities’
21 means—

22 “(i) loss and loss adjustment ex-
23 penses,

24 “(ii) unearned premiums, and

1 “(iii) reserves (other than any catas-
2 trophe, deficiency, equalization, or similar
3 reserves) for life and health insurance risks
4 and life and health insurance claims with
5 respect to contracts providing coverage for
6 mortality or morbidity risks (not to exceed
7 the amount of such reserve that is required
8 to be reported to the home country insur-
9 ance regulatory body).

10 “(C) APPLICABLE FINANCIAL STATE-
11 MENT.—For purposes of subparagraph (A)(iv),
12 the term ‘applicable financial statement’ means
13 a statement for financial reporting purposes
14 which—

15 “(i) is made on the basis of generally
16 accepted accounting principles,

17 “(ii) is made on the basis of inter-
18 national financial reporting standards, but
19 only if there is no statement that meets
20 the requirement of clause (i), or

21 “(iii) except as otherwise provided by
22 the Secretary in regulations, is the annual
23 statement which is required to be filed
24 with the home country insurance regu-
25 latory body, but only if there is no state-

1 ment which meets the requirements of
2 clause (i) or (ii).

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

6 “(4) QUALIFYING INSURANCE COMPANY
7 BRANCH.—The term ‘qualifying insurance company
8 branch’ means a qualified business unit (within the
9 meaning of section 989(a)) of a controlled foreign
10 corporation if—

11 “(A) such unit is licensed, authorized, or
12 regulated by the applicable insurance regulatory
13 body for its home country to sell insurance, re-
14 insurance, or annuity contracts to persons other
15 than related persons (within the meaning of
16 section 954(b)) in such home country, and

17 “(B) such controlled foreign corporation is
18 a qualifying insurance company, determined
19 under paragraph (3) as if such unit were a
20 qualifying insurance company branch.

21 “(5) LIFE INSURANCE OR ANNUITY CON-
22 TRACT.—For purposes of this section and section
23 954, the determination of whether a contract issued
24 by a controlled foreign corporation or a qualifying
25 insurance company branch is a life insurance con-

1 tract or an annuity contract shall be made without
2 regard to sections 72(s), 101(f), 817(h), and 7702
3 if—

4 “(A) such contract is regulated as a life in-
5 surance or annuity contract by the corpora-
6 tion’s or branch’s home country, and

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

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

12 “(A) CONTROLLED FOREIGN CORPORA-
13 TION.—The term ‘home country’ means, with
14 respect to a controlled foreign corporation, the
15 country in which such corporation is created or
16 organized.

17 “(B) QUALIFYING INSURANCE COMPANY
18 BRANCH.—The term ‘home country’ means,
19 with respect to a qualifying insurance company
20 branch, the country in which the principal office
21 of such branch is located and in which such
22 branch is licensed, authorized, or regulated by
23 the applicable insurance regulatory body to sell
24 insurance, reinsurance, or annuity contracts to

1 persons other than related persons (as defined
2 in section 954(b)) in such country.

3 “(7) ANTI-ABUSE RULES.—For purposes of ap-
4 plying this subsection and section 954(d)—

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

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

12 “(C) there shall be disregarded any change
13 in the method of computing reserves a principal
14 purpose of which is the acceleration or deferral
15 of any item in order to claim the benefits of
16 this subsection or section 954(d),

17 “(D) a contract of insurance or reinsur-
18 ance shall not be treated as an exempt contract
19 (and premiums from such contract shall not be
20 taken into account for purposes of paragraph
21 (2)(B) or (3)) if—

22 “(i) any policyholder, insured, annu-
23 itant, or beneficiary is a resident of the
24 United States and such contract was mar-

1 keted to such resident and was written to
2 cover a risk outside the United States, or

3 “(ii) the contract covers risks located
4 within and without the United States and
5 the qualifying insurance company or quali-
6 fying insurance company branch does not
7 maintain such contemporaneous records,
8 and file such reports, with respect to such
9 contract as the Secretary may require,

10 “(E) the Secretary may prescribe rules for
11 the allocation of contracts (and income from
12 contracts) among 2 or more qualifying insur-
13 ance company branches of a qualifying insur-
14 ance company in order to clearly reflect the in-
15 come of such branches, and

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

21 “(8) COORDINATION WITH SUBSECTION (c).—

22 “(A) IN GENERAL.—In determining insur-
23 ance income for purposes of subsection (c), ex-
24 empt insurance income shall not include income

1 derived from exempt contracts which cover risks
2 other than applicable home country risks.

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

13 “(9) REGULATIONS.—The Secretary shall pre-
14 scribe such regulations as may be necessary or ap-
15 propriate to carry out the purposes of this sub-
16 section and section 954(d).

17 “(10) CROSS REFERENCE.—For income exempt
18 from foreign personal holding company income, see
19 section 954(d).”.

20 (b) CAPTIVE INSURANCE COMPANIES.—

21 (1) MODIFICATION OF DE MIMIMIS EXCEP-
22 TION.—Section 953(c)(3)(B) is amended by striking
23 “determined without regard to those provisions of
24 subsection (a)(1) which limit insurance income to in-

1 come from countries other than the county in which
2 the corporation was created or organized”.

3 (2) CONFORMING AMENDMENT RELATING TO
4 SECTION __36.—Section 953(c)(3)(E) is amended by
5 striking by striking “for an uninterrupted period of
6 30 days or more” and inserting “at any time”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years of foreign corpora-
9 tions beginning after December 31, 2014, and to taxable
10 years of United States shareholders with or within which
11 such taxable years of foreign corporations end.

12 **SEC. __07. EXCLUSION OF DIVIDENDS FROM RELATED**
13 **CFCS.**

14 (a) IN GENERAL.—Section 952 is amended by adding
15 at the end the following new subsection:

16 “(e) EXCLUSION OF DIVIDENDS FROM RELATED
17 CFC.—

18 “(1) IN GENERAL.—In the case of a controlled
19 foreign corporation, subpart F income does not in-
20 clude any item of income which consists of a divi-
21 dend received or accrued from another controlled
22 foreign corporation which is a member of the same
23 expanded affiliated group (as defined in section
24 7874(c)(1)) as the corporation.

1 “(2) SPECIAL RULES FOR HYBRID DIVI-
2 DENDS.—Paragraph (1) shall not apply to any divi-
3 dend if the dividend is a hybrid dividend.

4 “(3) HYBRID DIVIDEND.—The term ‘hybrid
5 dividend’ has the meaning given such term under
6 section 245A(d)(3).”.

7 (b) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years of foreign corpora-
9 tions beginning after December 31, 2014, and to taxable
10 years of United States shareholders with or within which
11 such taxable years of foreign corporations end.

12 **SEC. __08. OTHER CONFORMING MODIFICATIONS TO DEFINI-**
13 **ITION OF SUBPART F INCOME.**

14 (a) DEDUCTIONS TAKEN INTO ACCOUNT.—

15 (1) IN GENERAL.—Section 952, as amended by
16 section __07, is amended by adding at the end the
17 following new subsection:

18 “(f) DEDUCTIONS TO BE TAKEN INTO ACCOUNT.—
19 For purposes of subsection (a), the foreign personal hold-
20 ing company income, the United States related income,
21 and the low-taxed income shall be reduced, under regula-
22 tions prescribed by the Secretary, so as to take into ac-
23 count deductions (including taxes) properly allocable to
24 such income. Except to the extent provided in regulations
25 prescribed by the Secretary, any interest which is paid or

1 accrued by the controlled foreign corporation to any
2 United States shareholder in such corporation (or any con-
3 trolled foreign corporation related to such a shareholder)
4 shall be allocated first to foreign personal holding com-
5 pany income which is passive income (within the meaning
6 of section 904(d)(2)) of such corporation to the extent
7 thereof. The Secretary may, by regulations, provide that
8 the preceding sentence shall apply also to interest paid or
9 accrued to other persons.”.

10 (2) CONFORMING AMENDMENTS.—

11 (A) Section 864(d)(5)(A), as amended by
12 section __05(c), is amended by striking clause
13 (ii) and by redesignating clause (iii) as clause
14 (ii).

15 (B) Section 864(d)(7)(B) is amended—

16 (i) by striking “foreign base company
17 income” and inserting “foreign personal
18 holding company income”, and

19 (ii) by striking “, determined without
20 regard to section 954(b)(3)”.

21 (C) Section 881(c)(5)(A), as amended by
22 section __05(c), is amended to read as follows:

23 “(A) IN GENERAL.—In the case of any
24 portfolio interest received by a controlled for-

1 eign corporation, clause (i) of section
2 954(a)(3)(A) shall not apply.”.

3 (b) MODIFICATIONS TO EARNINGS AND PROFITS
4 LIMITATION.—Clause (iii) of section 952(c)(1)(B) is
5 amended to read as follows:

6 “(iii) QUALIFIED ACTIVITY.—For pur-
7 poses of this paragraph, the term ‘qualified
8 activity’ means any activity giving rise
9 to—

10 “(I) United States related in-
11 come, or

12 “(II) low-taxed income.”.

13 (c) COORDINATION WITH AMOUNTS INCLUDED IN
14 GROSS INCOME OF UNITED STATES SHAREHOLDERS.—

15 (1) IN GENERAL.—Paragraph (1) of section
16 951(a) is amended by striking “such taxable year of
17 the corporation ends—” and all that follows through
18 the end period and inserting: “such taxable year of
19 the corporation ends, the shareholder’s pro rata
20 share (determined under paragraph (2)) of the cor-
21 poration’s subpart F income for such taxable year.”.

22 (2) CONFORMING AMENDMENTS.—

23 (A) Section 951(a) is amended—

1 (i) by striking “paragraph (1)(A)(i)”
2 in paragraph (2) and inserting “paragraph
3 (1)”, and

4 (ii) by striking paragraph (3).

5 (B) Subparagraph (A) of section
6 512(b)(17) is amended by striking
7 “951(a)(1)(A)” and inserting “951(a)(1)”.

8 (C) Section 851(b) is amended by striking
9 “951(a)(1)(A)(i)” in the first sentence following
10 paragraph (3) and inserting “951(a)(1)”.

11 (D) Section 904(d)(3) is amended—

12 (i) by striking “951(a)(1)(A)” in sub-
13 paragraph (B) and inserting “951(a)(1)”.

14 (ii) by striking the first sentence of
15 subparagraph (G), and

16 (iii) by striking “951(a)(1)(A)” each
17 place it appears in subparagraph (G) (as
18 amended by clause (ii)) and inserting
19 “951(a)(1)”.

20 (E) Section 952(c)(1)(B)(i) is amended by
21 striking “951(a)(1)(A)(i)” and inserting
22 “951(a)(1)”.

23 (F) Section 953 is amended—

1 (i) by striking “951(a)(1)(A)(i)” in
2 subsection (c)(1)(C) and inserting
3 “951(a)(1)”,

4 (ii) by striking paragraph (3) of sub-
5 section (d), and

6 (iii) in clause (iv) of subsection
7 (d)(4)(B), by inserting “(as in effect on
8 the day before the date of the enactment
9 of the _____ Act of 2013)” after
10 “section 951(a)(1)(A)”.

11 (G) Section 959(a) is amended—

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

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

19 (H) Section 959(c) is amended by adding
20 at the end the following: “References in this
21 subsection and subsection (f) to section
22 951(a)(1)(B) shall be treated as references to
23 such provisions as in effect on the day before
24 the enactment of the _____ Act of
25 2013.”.

1 (I) Section 959(e) is amended by striking
2 “951(a)(1)(A)” and inserting “951(a)(1)”.

3 (J) Section 989(b) is amended—

4 (i) by striking “951(a)(1)(A)” in
5 paragraph (3) and inserting “951(a)(1)”,
6 and

7 (ii) by striking the last sentence.

8 (K) Section 1298(b) is amended by strik-
9 ing paragraph (8).

10 (d) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to taxable years of foreign corpora-
12 tions beginning after December 31, 2014, and to taxable
13 years of United States shareholders with or within which
14 such taxable years of foreign corporations end.

15 **PART II—FOREIGN TAX CREDIT LIMITATIONS**

16 **SEC. 11. REFORM OF FOREIGN TAX CREDIT LIMITATION.**

17 (a) IN GENERAL.—Subsection (d) of section 904 is
18 amended to read as follows:

19 “(d) SEPARATE APPLICATION OF SECTION WITH RE-
20 SPECT TO CERTAIN CATEGORIES OF INCOME.—

21 “(1) IN GENERAL.—The provisions of sub-
22 sections (a), (b), and (c) and sections 907 and 960
23 shall be applied separately with respect to—

24 “(A) passive income,

1 “(B) amounts included under section
2 951(a) which are attributable to insurance in-
3 come (as defined in section 953),

4 “(C) amounts included under section
5 951(a) which are attributable to United States
6 related income (as defined in section 955),

7 “(D) amounts included under section
8 951(a) which are attributable to low-taxed in-
9 come (as defined in section 956),

10 “(E) foreign branch income, and

11 “(F) income other than income described
12 in any of the preceding subparagraphs.

13 “(2) DEFINITIONS AND SPECIAL RULES.—

14 “(A) PASSIVE INCOME.—

15 “(i) IN GENERAL.—The term ‘passive
16 income’ means—

17 “(I) income received or accrued
18 by the taxpayer which is of a kind
19 that would be foreign personal holding
20 company income (as defined under
21 section 954(a)) if such taxpayer were
22 a controlled foreign corporation, and

23 “(II) income which is included in
24 gross income of the taxpayer under
25 section 951(a)(1) to the extent such

1 income is attributable to foreign per-
2 sonal holding income.

3 “(ii) EXCEPTION FOR HIGH-TAXED
4 INCOME.—Passive income shall not include
5 any high-taxed income.

6 “(iii) HIGH-TAXED INCOME.—For
7 purposes of clause (ii), the term ‘high-
8 taxed income’ means any income which
9 (but for this clause) would be passive in-
10 come if the sum of—

11 “(I) the foreign income taxes
12 paid or accrued by the taxpayer with
13 respect to such income, and

14 “(II) the foreign income taxes
15 deemed paid by the taxpayer with re-
16 spect to such income under section
17 960,

18 exceeds the highest rate of tax specified in
19 section 1 or 11 (whichever applies) multi-
20 plied by the amount of such income (deter-
21 mined with regard to section 78). For pur-
22 poses of the preceding sentence, the term
23 ‘foreign income taxes’ means any income,
24 war profits, or excess profits tax imposed

1 by any foreign country or possession of the
2 United States.

3 “(iv) CLARIFICATION OF APPLICATION
4 OF SECTION 864(d)(6).—In determining
5 whether any income is passive income, the
6 rules of section 864(d)(6) shall apply only
7 in the case of income of a controlled for-
8 eign corporation.

9 “(B) FOREIGN BRANCH INCOME.—The
10 term ‘foreign branch income’ means the busi-
11 ness profits of such United States person which
12 are attributable to 1 or more qualified business
13 units (as defined in section 989(a)) in 1 or
14 more foreign countries. For purposes of the
15 preceding sentence, the amount of business
16 profits attributable to a qualified business unit
17 shall be determined—

18 “(i) in the case of a qualified business
19 unit in a foreign country with which the
20 United States has an income tax treaty in
21 force, in accordance with the terms of such
22 treaty, and

23 “(ii) in any other case, under rules es-
24 tablished by the Secretary.

1 Such term shall not include any income which
2 is passive income.

3 “(C) TREATMENT OF INCOME TAX BASE
4 DIFFERENCES.—

5 “(i) IN GENERAL.—In the case of tax-
6 able years beginning after December 31,
7 2014, tax imposed under the law of a for-
8 eign country or possession of the United
9 States on an amount which does not con-
10 stitute income under United States tax
11 principles shall be treated as imposed on
12 income described in paragraph (1)(F).

13 “(ii) SPECIAL RULES FOR YEARS
14 AFTER 2006 AND BEFORE 2015.—In the
15 case of taxable years beginning after De-
16 cember 31, 2006, and before January 1,
17 2015, tax imposed under the law of a for-
18 eign country or possession of the United
19 States on an amount which does not con-
20 stitute income under United States tax
21 principles shall be treated as imposed on
22 income described in paragraph (1)(B) (as
23 in effect for taxable years beginning in
24 2014).

1 “(iii) SPECIAL RULE FOR YEARS BE-
2 FORE 2007.—

3 “(I) IN GENERAL.—In the case
4 of taxes paid or accrued in taxable
5 years beginning after December 31,
6 2004, and before January 1, 2007, a
7 taxpayer may elect to treat tax im-
8 posed under the law of a foreign coun-
9 try or possession of the United States
10 on an amount which does not con-
11 stitute income under United States
12 tax principles as tax imposed on in-
13 come described in subparagraph (C)
14 or (I) of paragraph (1) (as in effect
15 for taxable years beginning in 2006).

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

22 “(D) TRANSITION RULES FOR CERTAIN
23 CARRYFORWARDS AND CARRYBACKS.—For pur-
24 poses of paragraph (1)—

1 “(i) in the case of any taxes carried
2 from any taxable year beginning before
3 January 1, 2015, to any taxable year be-
4 ginning on or after such date—

5 “(I) if such taxes were treated as
6 attributable to income described in
7 paragraph (1)(A) (as in effect for tax-
8 able years beginning in 2014), such
9 taxes shall be treated as attributable
10 to income described in paragraph
11 (1)(A), and

12 “(II) if such taxes were treated
13 as attributable to income described in
14 paragraph (1)(B) (as in effect for tax-
15 able years beginning in 2014), such
16 taxes shall be treated as attributable
17 to income described in paragraph
18 (1)(F), and

19 “(ii) the Secretary may by regulations
20 provide for the allocation of any carryback
21 of taxes with respect to income from a tax-
22 able year beginning on or after January 1,
23 2015, to a taxable year beginning before
24 such date for purposes of allocating such

1 income among the separate categories in
2 effect for the taxable year to which carried.

3 “(3) CONTROLLED FOREIGN CORPORATION;
4 UNITED STATES SHAREHOLDER.—For purposes of
5 this subsection—

6 “(A) CONTROLLED FOREIGN CORPORA-
7 TION.—The term ‘controlled foreign corpora-
8 tion’ has the meaning given such term by sec-
9 tion 957 (taking into account section 953(c)).

10 “(B) UNITED STATES SHAREHOLDER.—
11 The term ‘United States shareholder’ has the
12 meaning given such term by section 951(b)
13 (taking into account section 953(c)).

14 “(4) SEPARATE APPLICATION TO ITEMS
15 RESOURCED UNDER TREATIES.—

16 “(A) IN GENERAL.—If—

17 “(i) without regard to any treaty obli-
18 gation of the United States, any item of
19 income would be treated as derived from
20 sources within the United States,

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

1 “(iii) the taxpayer chooses the bene-
2 fits of such treaty obligation,
3 subsections (a), (b), and (c) of this section and
4 sections 907 and 960 shall be applied sepa-
5 rately with respect to each such item.

6 “(B) COORDINATION WITH OTHER PROVI-
7 SIONS.—This paragraph shall not apply to any
8 item of income to which subsection (h)(10) or
9 section 865(h) applies.

10 “(C) REGULATIONS.—The Secretary may
11 issue such regulations or other guidance as may
12 be necessary or appropriate to carry out the
13 purposes of this paragraph, including regula-
14 tions or other guidance which provides that re-
15 lated items of income may be aggregated for
16 purposes of this paragraph.

17 “(5) REGULATIONS.—The Secretary shall pre-
18 scribe such regulations as may be necessary or ap-
19 propriate for the purposes of this subsection, includ-
20 ing preventing the manipulation of the character of
21 income the effect of which is to avoid the purposes
22 of this subsection.”.

23 (b) EFFECTIVE DATE.—The amendment made by
24 this section shall apply to taxable years beginning after
25 December 31, 2014.

1 **SEC. 12. DENIAL OF CREDIT AND DEDUCTION FOR FOR-**
2 **EIGN TAXES WITH RESPECT TO INCOME NOT**
3 **TREATED AS SUBPART F INCOME.**

4 (a) **IN GENERAL.**—Section 901 is amended by redес-
5 ignating subsection (n) as subsection (o) and by inserting
6 after subsection (m) the following:

7 “(n) **DENIAL OF FOREIGN TAX CREDIT AND DEDUC-**
8 **TION ON INCOME NOT TREATED AS SUBPART F IN-**
9 **COME.**—

10 “(1) **IN GENERAL.**—No credit shall be allowed
11 under subsection (a) for any income, war profits, or
12 excess profits taxes paid or accrued by the tax-
13 payer—

14 “(A) with respect to income of a controlled
15 foreign corporation which is not included in the
16 gross income of a United States shareholder
17 under section 951(a)(1), or

18 “(B) with respect to any dividend for
19 which a deduction is allowed under section
20 245A.

21 “(2) **DENIAL OF DEDUCTION.**—No deduction
22 shall be allowed to a taxpayer under this chapter for
23 any tax for which credit is not allowable under sec-
24 tion 901 by reason of paragraph (1).”.

25 (b) **EFFECTIVE DATE.**—The amendments made by
26 this section shall apply to taxable years of foreign corpora-

1 tions beginning after December 31, 2014, and to taxable
2 years of United States shareholders with or within which
3 such taxable years of foreign corporations end.

4 **PART III—EXPENSE DISALLOWANCE**

5 **SEC. 21. DISALLOWANCE OF DEDUCTION FOR INTEREST**
6 **EXPENSE ALLOCABLE TO EXEMPT INCOME**
7 **OF A CONTROLLED FOREIGN CORPORATION.**

8 (a) IN GENERAL.—Part IX of subchapter B of chap-
9 ter 1 is amended by adding at the end the following:

10 **“SEC. 265A. INTEREST EXPENSE ALLOCABLE TO EXEMPT**
11 **INCOME OF A CONTROLLED FOREIGN COR-**
12 **PORATION.**

13 “(a) IN GENERAL.—In the case of a domestic cor-
14 poration which is a United States shareholder of a con-
15 trolled foreign corporation for any taxable year, no deduc-
16 tion shall be allowed under this chapter for the disallowed
17 portion of any allocable CFC interest.

18 “(b) DISALLOWED PORTION.—For purposes of this
19 section—

20 “(1) IN GENERAL.—The term ‘disallowed por-
21 tion’ means, with respect to any allocable CFC inter-
22 est in connection with a controlled foreign corpora-
23 tion, the amount which bears the same ratio to the
24 amount of such interest as—

1 “(A) the amount of the excess for the ap-
2 plicable taxable year of the corporation of—

3 “(i) the corporation’s current earnings
4 and profits, over

5 “(ii) the sum of—

6 “(I) the corporation’s subpart F
7 income, reduced, under regulations
8 provided by the Secretary, to take into
9 account the deduction allowed under
10 section 200, plus

11 “(II) the amount of effectively
12 connected income excluded from the
13 corporation’s subpart F income by
14 reason of section 952(b), reduced, in
15 accordance with regulations prescribed
16 by the Secretary, so as to take into
17 account deductions (including taxes)
18 for expenses of the controlled foreign
19 corporation properly allocable to such
20 income, bears to

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

23 “(2) CURRENT EARNINGS AND PROFITS.—For
24 purposes of this subsection, the term ‘current earn-
25 ings and profits’ means the earnings and profits of

1 the controlled foreign corporation for the applicable
2 taxable year computed in the same manner as for
3 purposes of section 952(e), except that such earn-
4 ings and profits shall be reduced by dividends re-
5 ceived by the controlled foreign corporation from an-
6 other controlled foreign corporation which are not
7 taken into account in computing the subpart F in-
8 come of the recipient controlled foreign corporation
9 by reason of section 952(e).

10 “(c) DEFINITIONS AND SPECIAL RULES.—For pur-
11 poses of this section—

12 “(1) ALLOCABLE CFC INTEREST.—The term
13 ‘allocable CFC interest’ means any interest expense
14 paid or accrued during the taxable year by a domes-
15 tic corporation which is a United States shareholder
16 of a controlled foreign corporation which under sec-
17 tion 861, and subsection (e) or (f) of section 864
18 (whichever is applicable), is apportioned to income of
19 the controlled foreign corporation. For purposes of
20 the preceding sentence, in applying section
21 864(e)(3), any reference to section 245A shall be
22 disregarded.

23 “(2) APPLICABLE TAXABLE YEAR.—The term
24 ‘applicable taxable year’ means, with respect to any
25 controlled foreign corporation, the taxable year of

1 such corporation which ends with or within the tax-
2 able year of the United States shareholder described
3 in subsection (a).

4 “(3) UNITED STATES SHAREHOLDER; CON-
5 TROLLED FOREIGN CORPORATION.—The term
6 ‘United States shareholder’ has the meaning given
7 such term by section 951(b) and the term ‘controlled
8 foreign corporation’ shall have the meaning given
9 such term by section 957(a).

10 “(4) SPECIAL RULE FOR MEMBERS OF AN AF-
11 FILLATED GROUP.—If a United States shareholder
12 to which subsection (a) applies is a member of a
13 group all members of which are treated as a single
14 corporation under subsection (e) or (f) of section
15 864, whichever is applicable, all domestic corpora-
16 tions which are members of such group shall be
17 treated as a single corporation for purposes of this
18 section.

19 “(5) SPECIAL RULES.—

20 “(A) COORDINATION WITH OTHER PROVI-
21 SIONS.—Except as provided in regulations, this
22 section shall be applied before any other provi-
23 sion of this chapter limiting the deductibility of
24 any allocable CFC interest.

1 “(B) SEPARATE APPLICATION TO INCOME
2 IN SEPARATE BASKETS.—This section shall be
3 applied separately with respect to the categories
4 of income under section 904(d)(1).

5 “(d) REGULATIONS.—The Secretary shall prescribe
6 such regulations as may be necessary to carry out the pur-
7 poses of this section, including regulations providing—

8 “(1) for the sharing of information between
9 shareholders if necessary to carry out the provisions
10 of this section,

11 “(2) for directly associating interest expenses
12 disallowed under this section with income of a con-
13 trolled foreign corporation and for coordinating this
14 section with other provisions of this chapter limiting
15 the deductibility of interest or other expenses, and

16 “(3) for the proper application of this section
17 with respect to the taxpayer's share of net operating
18 losses or deficits in earnings and profits of a con-
19 trolled foreign corporation.”.

20 (b) CONFORMING AMENDMENT.—The table of sec-
21 tions for part IX of subchapter B of chapter 1 is amended
22 by inserting after the item relating to section 265 the fol-
23 lowing:

“Sec. 265A. Interest expense allocable to exempt income of a controlled foreign
corporation.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years of foreign corpora-
3 tions beginning after December 31, 2014, and to taxable
4 years of United States shareholders with or within which
5 such taxable years of foreign corporations end.