

103^D CONGRESS
1ST SESSION

S. 1700

To amend the Internal Revenue Code of 1986 to limit the interest deduction allowed corporations and to allow a deduction for dividends paid by corporations.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 19 (legislative day, NOVEMBER 2), 1993

Mr. SIMON introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to limit the interest deduction allowed corporations and to allow a deduction for dividends paid by corporations.

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. LIMITATION ON INTEREST DEDUCTION AL-**
4 **LOWED CORPORATIONS.**

5 (a) IN GENERAL.—Section 163 of the Internal Reve-
6 nue Code of 1986 (relating to deduction for interest) is
7 amended by redesignating subsection (k) as subsection (l)
8 and by inserting after subsection (j) the following new sub-
9 section:

1 “(k) LIMITATION ON CORPORATE INTEREST PAY-
2 MENTS.—

3 “(1) IN GENERAL.—Except as provided in para-
4 graph (2), in the case of a corporation, the amount
5 otherwise allowed as a deduction under this chapter
6 for interest paid or accrued during the taxable year
7 by such corporation shall be reduced by 20 percent.

8 “(2) EXCEPTION FOR CERTAIN CORPORA-
9 TIONS.—

10 “(A) IN GENERAL.—Paragraph (1) shall
11 not apply for any taxable year to any corpora-
12 tion the earnings and profits of which for such
13 taxable year (computed as of the close of the
14 taxable year without diminution by reason of
15 any dividend distributions made during such
16 taxable year) do not exceed the lesser of—

17 “(i) the corporation’s tax liability
18 under this chapter for such taxable year
19 (determined after the application of para-
20 graph (1)), or

21 “(ii) \$100,000.

22 “(B) CONTROLLED GROUP.—For purposes
23 of subparagraph (A), all component members of
24 a controlled group (as defined in section
25 179(d)(7)) shall be treated as 1 corporation.

1 “(3) EXCEPTION FOR FARMING BUSINESSES.—
 2 Paragraph (1) shall not apply to any corporation
 3 substantially all of the assets of which are used in
 4 the active conduct of a farming business (as defined
 5 in section 448(d)(1)).”.

6 (b) EFFECTIVE DATE.—The amendment made by
 7 subsection (a) shall apply to taxable years beginning after
 8 December 31, 1993.

9 **SEC. 2. DIVIDEND PAID DEDUCTION.**

10 (a) GENERAL RULE.—Part VIII of subchapter B of
 11 chapter 1 of the Internal Revenue Code of 1986 (relating
 12 to special deductions for corporations) is amended by
 13 striking the table of sections and section 241 and inserting
 14 the following:

 “Subpart A. Dividend paid deduction.
 “Subpart B. Dividend received deduction.
 “Subpart C. Miscellaneous provisions.

15 **“SEC. 230. ALLOWANCE OF SPECIAL DEDUCTIONS.**

16 “‘In addition to the deductions provided in part VI
 17 (section 161 and following), there shall be allowed as de-
 18 ductions in computing taxable income the items specified
 19 in this part.

20 **“Subpart A—Dividend Paid Deduction**

 “Sec. 231. Dividend paid deduction.
 “Sec. 232. Qualified dividend account.
 “Sec. 233. Ineligible corporations.
 “Sec. 234. Special rules.

1 **“SEC. 231. DIVIDEND PAID DEDUCTION.**

2 “(a) ALLOWANCE OF DEDUCTION.—In the case of a
3 corporation, there shall be allowed as a deduction an
4 amount equal to 50 percent of the dividends paid by such
5 corporation during the taxable year.

6 “(b) LIMITATION BASED ON AMOUNT IN QUALIFIED
7 DIVIDEND ACCOUNT.—The amount of the dividends paid
8 during any taxable year which may be taken into account
9 under subsection (a) shall not exceed the amount in the
10 corporation’s qualified dividend account as of the close of
11 such taxable year determined after the application of sec-
12 tion 232(b)(1) for the taxable year but before the applica-
13 tion of section 232(b)(2) for such taxable year.

14 **“SEC. 232. QUALIFIED DIVIDEND ACCOUNT.**

15 “(a) ESTABLISHMENT OF ACCOUNT.—Each corpora-
16 tion shall establish a qualified dividend account. The open-
17 ing balance of such account shall be zero.

18 “(b) ADJUSTMENTS TO ACCOUNTS.—As of the close
19 of each taxable year beginning after January 1, 1993, the
20 qualified dividend account—

21 “(1) shall be increased by the adjusted taxable
22 income of the corporation for the taxable year, and

23 “(2) shall be reduced by the amount of the divi-
24 dends paid by the corporation during the taxable
25 year to the extent the amount so paid does not ex-
26 ceed the limitation of section 231(c).

1 “(c) ADJUSTED TAXABLE INCOME.—For purposes of
2 this section—

3 “(1) IN GENERAL.—The term ‘adjusted taxable
4 income’ means taxable income adjusted as provided
5 in this subsection.

6 “(2) ADJUSTMENT FOR CERTAIN QUALIFYING
7 DIVIDENDS.—Taxable income shall be increased by
8 the deduction allowed under section 243 with respect
9 to that portion of any qualifying dividend (as defined
10 in section 243(b)(1)) for which such deduction is de-
11 termined at a rate of less than 100 percent. Similar
12 rules shall apply in the case of dividends for which
13 deductions are allowable under section 245(b).

14 “(3) ADJUSTMENT FOR TAX CREDITS.—

15 “(A) IN GENERAL.—Taxable income shall
16 be reduced by the deduction equivalent of the
17 tentative nonrefundable credits for the taxable
18 year.

19 “(B) DEDUCTION EQUIVALENT.—For pur-
20 poses of subparagraph (A), the deduction equiv-
21 alent of the tentative nonrefundable credits for
22 any taxable year is the amount which (if al-
23 lowed as a deduction for the taxable year)
24 would reduce the tax liability (as defined in sec-

1 tion 26(b)) for the taxable year by an amount
2 equal to the tentative nonrefundable credits.

3 “(C) TENTATIVE NONREFUNDABLE CRED-
4 ITS.—For purposes of this paragraph, the term
5 ‘tentative nonrefundable credits’ means the
6 amount of the credits which would have been
7 allowable under part IV of subchapter A of this
8 chapter for the taxable year (other than the
9 credit allowable under section 34) if no deduc-
10 tion were allowable under section 231.

11 “(4) ADJUSTMENT FOR CORPORATE MINIMUM
12 TAX.—If tax is imposed by section 55 on the cor-
13 poration for any taxable year, taxable income for the
14 succeeding taxable year shall be increased by an
15 amount equal to $\frac{35}{100}$ of the amount of tax so im-
16 posed.

17 “(5) DIVIDEND PAID DEDUCTION NOT TAKEN
18 INTO ACCOUNT.—Taxable income shall be deter-
19 mined without regard to the deduction allowed under
20 section 231.

21 **“SEC. 233. INELIGIBLE CORPORATIONS.**

22 “(a) GENERAL RULE.—No deduction shall be allowed
23 under section 231 with respect to any dividend paid by—

24 “(1) a regulated investment company,

25 “(2) a real estate investment trust,

1 “(3) an S corporation,

2 “(4) any organization taxable under subchapter
3 T of this chapter (relating to cooperative organiza-
4 tions), or

5 “(5) a FSC or DISC.

6 “(b) FOREIGN CORPORATIONS.—In the case of a for-
7 eign corporation—

8 “(1) no deduction shall be allowed under section
9 231 for dividends paid by such corporation during
10 any taxable year unless the corporation meets the
11 requirements of section 245(a) for such taxable year,

12 “(2) only adjusted taxable income effectively
13 connected with the conduct of a trade or business in
14 the United States and attributable to the uninter-
15 rupted period referred to in section 245(a) shall be
16 added to the qualified dividend account, and

17 “(3) any distribution shall be treated as made
18 ratably out of income effectively connected with the
19 conduct of a trade or business in the United States
20 and other income.

21 **“SEC. 234. SPECIAL RULES.**

22 “(a) CERTAIN DISTRIBUTIONS NOT TREATED AS
23 DIVIDENDS.—For purposes of this subpart, the term ‘divi-
24 dend’ does not include—

1 “(1) any distribution in redemption of stock, in
 2 liquidation, or in a reorganization (whether or not
 3 such distribution is treated as a distribution to
 4 which section 301 applies), and

5 “(2) any dividend described in section 244 (re-
 6 lating to dividends received on certain preferred
 7 stock).

8 “(b) DEDUCTION NOT TAKEN INTO ACCOUNT FOR
 9 PURPOSES OF CERTAIN LIMITATIONS BASED ON TAX-
 10 ABLE INCOME.—For purposes of sections 246(c), 613,
 11 613A, and 593, taxable income shall be determined with-
 12 out regard to the deduction allowed under section 231.

13 “(c) TREATMENT OF DIVIDENDS RECEIVED BY 5-
 14 PERCENT TAX-EXEMPT SHAREHOLDERS.—

15 “(1) IN GENERAL.—For purposes of part III of
 16 subchapter F (relating to taxation of unrelated busi-
 17 ness income of certain exempt organizations), any
 18 dividend received by a tax-exempt organization from
 19 a corporation in which such organization is a 5-per-
 20 cent shareholder shall be treated as unrelated busi-
 21 ness taxable income to the extent of the amount of
 22 the deduction allowable under section 231 to such
 23 corporation with respect to such dividend. Except as
 24 provided in regulations, the amount of such deduc-

tion shall be determined on the basis of the return
filed by the corporation for the taxable year.

“(2) DEFINITIONS.—For purposes of this sub-
section—

“(A) 5-PERCENT SHAREHOLDER.—The
term ‘5-percent shareholder’ means any tax-ex-
empt organization which owns (or is considered
as owning within the meaning of section 318)—

“(i) 5 percent or more (by value) of
the outstanding stock of the corporation,
or

“(ii) stock possessing 5 percent or
more of the total combined voting power of
all stock of the corporation.

“(B) TAX-EXEMPT ORGANIZATION.—The
term ‘tax-exempt organization’ means any orga-
nization which is exempt from the tax imposed
by this chapter.

“(C) RELATED ENTITIES.—A tax-exempt
organization and 1 or more other tax-exempt
organizations which have—

“(i) significant common purposes and
substantial common membership, or

“(ii) directly or indirectly substantial
common direction or control, shall be treat-

1 ed as 1 tax-exempt organization for pur-
2 poses of this paragraph.

3 “(d) TREATMENT OF SUBSEQUENT ADJUST-
4 MENTS.—If there is any adjustment which affects the
5 amount of the adjusted taxable income of a corporation
6 for any taxable year (whether by reason of any carryback
7 to such taxable year or otherwise) for purposes of this sub-
8 part and subpart B, the amount of such adjustment shall
9 be treated as made as of the close of such taxable year.

10 “(e) ALLOCATION OF QUALIFIED DIVIDEND AC-
11 COUNT IN CORPORATE SEPARATIONS, REORGANIZATIONS,
12 AND REDEMPTIONS.—Adjustments similar to the adjust-
13 ments provided in subsection (h) or (n)(7) of section 312
14 shall be made to the qualified dividend account in the case
15 of a transaction described in either of such subsections.

16 “(f) MUTUAL LIFE INSURANCE COMPANIES.—

17 “(1) GENERAL RULE.—In the case of a mutual
18 life insurance company, for purposes of this subpart,
19 80 percent of the differential earnings amount (as
20 defined in section 809(a)(3)) shall be treated as a
21 dividend paid to a shareholder.

22 “(2) REGULATIONS.—The Secretary may pre-
23 scribe regulations applying rules consistent with this
24 subpart to mutual life insurance companies. Such
25 regulations may include rules treating an appro-

1 prate portion of the recomputed differential earn-
 2 ings amount (as defined in section 809(f)(3)) as an
 3 adjustment to the amount described in paragraph
 4 (1).

5 **“Subpart B—Dividend Received Deduction**

“Sec. 243. Dividends received by corporations.

“Sec. 244. Dividends received on certain preferred stock.

“Sec. 245. Dividends received from certain foreign corporations.

“Sec. 246. Rules applying to deductions for dividends received.

“Sec. 246A. Dividends received deduction reduced where port-
 folio stock is debt financed.

“Sec. 247. Dividends paid on certain preferred stock of public
 utilities.”.

6 (b) COMPENSATORY WITHHOLDING TAX ON DIVI-
 7 DENDS PAID TO NONRESIDENT ALIENS OR FOREIGN
 8 CORPORATIONS.—

9 (1) GENERAL RULE.—Subpart D of part II of
 10 subchapter N of chapter 1 (relating to miscellaneous
 11 provisions) is amended by adding at the end thereof
 12 the following new section:

13 **“SEC. 899. ADDITIONAL TAX ON DIVIDENDS TO REFLECT**
 14 **DIVIDEND PAID DEDUCTION.**

15 “(a) GENERAL RULE.—In addition to any tax im-
 16 posed by section 871 or 881, there is hereby imposed a
 17 tax equal to 30.4 percent of the dividends received from
 18 sources within the United States by a nonresident alien
 19 individual or foreign corporation.

20 “(b) TAX NOT TO APPLY TO SHAREHOLDER’S EF-
 21 FECTIVELY CONNECTED ITEMS.—The tax imposed by this

1 section shall not apply to any dividend to the extent such
2 dividend is effectively connected with the conduct of a
3 trade or business by the shareholder within the United
4 States.

5 “(c) CORRESPONDING INCREASE IN WITHHOLDING
6 TAX.—In the case of any dividend subject to tax under
7 subsection (a), the tax imposed by section 1441 or 1442
8 (as the case may be) shall be increased by an amount
9 equal to the applicable percentage of such dividend.

10 “(d) EXCEPTION FOR CERTAIN TREATY COUN-
11 TRIES.—The tax imposed by subsection (a) shall not apply
12 to any dividend paid to a resident or corporation of a for-
13 eign country during any period—

14 “(1) in which an income tax treaty between
15 such country and the United States is in effect, and

16 “(2) during which there is in effect a certifi-
17 cation by the Secretary that—

18 “(A) such income tax treaty has adequate
19 provisions to prevent treaty shopping, and

20 “(B) if such foreign country imposes an in-
21 come tax comparable to the tax imposed by this
22 subtitle and grants relief from such tax to its
23 residents, such country grants relief equivalent
24 to that provided in section 231 with respect to
25 dividends paid to United States persons.

1 The requirements of paragraph (2) shall not apply to divi-
 2 dends paid before January 1, 1994.”.

3 (2) CLERICAL AMENDMENT.—The table of sec-
 4 tions for subpart D of part II of subchapter N of
 5 chapter 1 is amended by adding at the end thereof
 6 the following new item:

“Sec. 899. Additional tax on dividends to reflect dividend paid de-
 duction.”.

7 (c) SECTION 381 TO APPLY TO QUALIFIED DIVI-
 8 DEND ACCOUNT.—Subsection (c) of section 381 (relating
 9 to items of the distributor or transferor corporation) is
 10 amended by adding at the end thereof the following new
 11 paragraph:

12 “(27) QUALIFIED DIVIDEND ACCOUNT.—Under
 13 regulations prescribed by the Secretary, the acquir-
 14 ing corporation shall take into account (to the extent
 15 proper to carry out the purposes of this section and
 16 subpart A of part VIII of subchapter B of this chap-
 17 ter) the qualified dividend account of the distributor
 18 or transferor corporation.”.

19 (d) CLERICAL AMENDMENT.—Part VIII of sub-
 20 chapter B of chapter 1 is amended by inserting after sec-
 21 tion 247 the following:

22 **“Subpart C—Miscellaneous Provisions**

“Sec. 248. Organizational expenditures.

“Sec. 249. Limitation on deduction of bond premium on repur-
 chase.”.

