

104TH CONGRESS  
1ST SESSION

# S. 1291

To amend the Internal Revenue Code of 1986 with respect to the treatment of effectively connected investment income of insurance companies.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29 (legislative day, SEPTEMBER 25), 1995

Mr. ABRAHAM (for himself and Mr. LEVIN) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 with respect to the treatment of effectively connected investment income of insurance companies.

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. FOREIGN COMPANIES CARRYING ON INSUR-**  
4 **ANCE BUSINESS.**

5 (a) TREATMENT OF EFFECTIVELY CONNECTED NET  
6 INVESTMENT INCOME OF INSURANCE COMPANIES.—

7 (1) IN GENERAL.—Subsection (b) of section  
8 842 of the Internal Revenue Code of 1986 is amend-  
9 ed by redesignating paragraphs (2), (3), (4), and (5)  
10 as paragraphs (6), (7), (8), and (9), respectively,

1 and by striking paragraph (1) and inserting the fol-  
2 lowing new paragraphs:

3 “(1) RECOMPUTATION OF NET INVESTMENT IN-  
4 COME.—Each foreign company taxable under part I  
5 or II of this subchapter shall recompute its effec-  
6 tively connected net investment income for any tax-  
7 able year beginning after December 31, 1987 (here-  
8 after in this subsection referred to as the ‘recom-  
9 puted year’) by making the adjustments specified in  
10 paragraph (2) for the second succeeding taxable year  
11 (hereafter in the section referred to as the ‘adjust-  
12 ment year’).

13 “(2) ADJUSTMENTS.—

14 “(A) INCREASE WHERE RECOMPUTED  
15 AMOUNT GREATER.—If—

16 “(i) the recomputed effectively con-  
17 nected net investment income for the re-  
18 computed year, exceeds

19 “(ii) the effectively connected net in-  
20 vestment income for such year (determined  
21 without regard to this subsection),

22 such excess shall increase the effectively con-  
23 nected net investment income for the adjust-  
24 ment year.

1 “(B) DECREASE WHERE RECOMPUTED  
2 AMOUNT LESSER.—If—

3 “(i) the effectively connected net in-  
4 vestment income for the recomputed year  
5 (determined without regard to this sub-  
6 section), exceeds

7 “(ii) the recomputed effectively con-  
8 nected net investment income for such  
9 year,

10 such excess shall reduce the effectively con-  
11 nected net investment income for the adjust-  
12 ment year.

13 “(C) INTEREST ON ADJUSTMENTS.—The  
14 foreign company shall pay (or be entitled to re-  
15 ceive) interest in the amount which would have  
16 been computed under chapter 67 on the  
17 underpayment or overpayment (as the case may  
18 be) which would have resulted if the adjustment  
19 under subparagraph (A) or (B) (whichever ap-  
20 plies) were made for the recomputed year.

21 “(3) RECOMPUTED EFFECTIVELY CONNECTED  
22 NET INVESTMENT INCOME.—For purposes of this  
23 subsection, the term ‘recomputed effectively con-  
24 nected net investment income’ means the greater  
25 of—

1           “(A) the cumulative effectively connected  
2           net investment income (determined without re-  
3           gard to this subsection) for the recomputed  
4           year and all preceding taxable years beginning  
5           after December 31, 1987, or

6           “(B) the cumulative minimum effectively  
7           connected net investment income for the recom-  
8           puted year and such preceding taxable years,  
9           reduced by the amount of the cumulative recom-  
10          puted effectively connected net investment income  
11          determined under this subsection for such preceding  
12          taxable years.

13          “(4) MINIMUM EFFECTIVELY CONNECTED NET  
14          INVESTMENT INCOME.—For purposes of this sub-  
15          section, the term ‘minimum effectively connected net  
16          investment income’ means, with respect to any tax-  
17          able year, the product of—

18                 “(A) the required United States assets of  
19                 the foreign company, and

20                 “(B) the domestic investment yield applica-  
21                 ble to such company for such taxable year.

22          “(5) EFFECTIVELY CONNECTED NET INVEST-  
23          MENT INCOME.—For purposes of this subsection, the  
24          term ‘effectively connected net investment income’  
25          means the net investment income which is effectively

1 connected with the conduct of an insurance business  
2 within the United States.”

3 (2) CONFORMING AMENDMENTS.—

4 (A) Paragraph (6) of section 842(b) of  
5 such Code, as redesignated by subsection (a), is  
6 amended by striking “paragraph (1)” and in-  
7 serting “paragraph (4)”.

8 (B) Paragraph (7) of section 842(b) of  
9 such Code, as redesignated by subsection (a), is  
10 amended by striking “paragraph (1)(B)” and  
11 inserting “paragraph (4)(B)”.

12 (C) Subparagraph (A) of section 842(b)(8)  
13 of such Code, as redesignated by subsection (a),  
14 is amended by striking “paragraph (1)(B)” and  
15 inserting “paragraph (4)(B)”.

16 (D) Paragraph (3) of section 842(c) of  
17 such Code is amended to read as follows:

18 “(3) ADJUSTMENT OF LIMITATION ON DEDUC-  
19 TION FOR POLICYHOLDER DIVIDENDS IN CASE OF  
20 FOREIGN MUTUAL LIFE INSURANCE COMPANIES.—  
21 For purposes of section 809, the equity base of any  
22 foreign mutual life insurance company as of the  
23 close of any adjustment year shall be increased by  
24 the excess of—

1           “(A) the required United States assets of  
2           the company for the second preceding taxable  
3           year (determined under subsection (b)(6)), over

4           “(B) the mean of the assets held in the  
5           United States during the second preceding tax-  
6           able year.”

7           (E) Paragraph (4) of section 842(c) of  
8           such Code is amended to read as follows:

9           “(4) DATA USED IN DETERMINING DOMESTIC  
10          ASSET/LIABILITY PERCENTAGES AND DOMESTIC IN-  
11          VESTMENT YIELDS.—Each domestic asset/liability  
12          percentage, and each domestic investment yield, for  
13          any taxable year shall be based on representative tax  
14          return data with respect to domestic insurance com-  
15          panies for such taxable year (or where such data is  
16          unavailable, such representative data as the Sec-  
17          retary considers appropriate).”

18          (b) EFFECTIVE DATE.—The amendments made by  
19          this section shall apply as if included in the provision of  
20          the Omnibus Budget Reconciliation Act of 1987 to which  
21          they relate.

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