

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.

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

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.—

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.

