

107TH CONGRESS  
1ST SESSION

# S. 1863

To amend the Internal Revenue Code of 1986 to clarify the treatment for foreign tax credit limitation purposes of certain transfers of intangible property.

---

## IN THE SENATE OF THE UNITED STATES

DECEMBER 20 (legislative day, DECEMBER 18), 2001

Mr. GRAHAM 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 clarify the treatment for foreign tax credit limitation purposes of certain transfers of intangible property.

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. CLARIFICATION OF TREATMENT OF CERTAIN  
4 TRANSFERS OF INTANGIBLE PROPERTY.**

5       (a) IN GENERAL.—Subparagraph (C) of section  
6 367(d)(2) of the Internal Revenue Code of 1986 (relating  
7 to transfer of intangibles treated as transfer pursuant to  
8 sale of contingent payments) is amended by adding at the  
9 end the following new sentence: “For purposes of applying

1 the various categories of income described in section  
2 904(d)(1), any such amount shall be treated in the same  
3 manner as if such amount were a royalty.”.

4 (b) EFFECTIVE DATE; WAIVER OF LIMITATIONS.—

5 (1) EFFECTIVE DATE.—The amendment made  
6 by this section shall take effect as if included in the  
7 amendments made by section 1131(b) of the Tax-  
8 payer Relief Act of 1997.

9 (2) WAIVER OF LIMITATIONS.—If refund or  
10 credit of any overpayment of tax resulting from the  
11 application of the amendment made by this section  
12 is prevented at any time before the close of the 1-  
13 year period beginning on the date of the enactment  
14 of this Act by the operation of any law or rule of  
15 law (including res judicata), such refund or credit  
16 may nevertheless be made or allowed if claimed  
17 therefor is filed before the close of such period.

