

108TH CONGRESS
1ST SESSION

S. 914

To amend the Internal Revenue Code of 1986 to apply look-thru rules for purposes of the foreign tax credit limitation to dividends from foreign corporations not controlled by a domestic corporation.

IN THE SENATE OF THE UNITED STATES

APRIL 11, 2003

Mr. SMITH (for himself, Mr. BREAUX, and Mr. HATCH) 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 apply look-thru rules for purposes of the foreign tax credit limitation to dividends from foreign corporations not controlled by a domestic corporation.

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. LOOK-THRU RULES TO APPLY TO DIVIDENDS**
4 **FROM NONCONTROLLED SECTION 902 COR-**
5 **PORATIONS.**

6 (a) IN GENERAL.—Paragraph (4) of section 904(d)
7 of the Internal Revenue Code of 1986 (relating to separate

1 application of section with respect to certain categories of
 2 income) is amended to read as follows:

3 “(4) LOOK-THRU APPLIES TO DIVIDENDS FROM
 4 NONCONTROLLED SECTION 902 CORPORATIONS.—

5 “(A) IN GENERAL.—For purposes of this
 6 subsection, any dividend from a noncontrolled
 7 section 902 corporation with respect to the tax-
 8 payer shall be treated as income in a separate
 9 category in proportion to the ratio of—

10 “(i) the portion of earnings and prof-
 11 its attributable to income in such category,
 12 to

13 “(ii) the total amount of earnings and
 14 profits.

15 “(B) SPECIAL RULES.—For purposes of
 16 this paragraph—

17 “(i) IN GENERAL.—Rules similar to
 18 the rules of paragraph (3)(F) shall apply.

19 “(ii) EARNINGS AND PROFITS.—

20 “(I) IN GENERAL.—The rules of
 21 section 316 shall apply.

22 “(II) REGULATIONS.—The Sec-
 23 retary may prescribe regulations re-
 24 garding the treatment of distributions
 25 out of earnings and profits for periods

1 before the taxpayer's acquisition of
2 the stock to which the distributions
3 relate.

4 “(iii) DIVIDENDS NOT ALLOCABLE TO
5 SEPARATE CATEGORY.—The portion of any
6 dividend from a noncontrolled section 902
7 corporation which is not treated as income
8 in a separate category under subparagraph
9 (A) shall be treated as a dividend to which
10 subparagraph (A) does not apply.

11 “(iv) LOOK-THRU WITH RESPECT TO
12 CARRYFORWARDS OF CREDIT.—Rules simi-
13 lar to the rules of subparagraph (A) also
14 shall apply to any carryforward under sub-
15 section (c) from a taxable year beginning
16 before January 1, 2003, of tax allocable to
17 a dividend from a noncontrolled section
18 902 corporation with respect to the tax-
19 payer.”.

20 (b) CONFORMING AMENDMENTS.—

21 (1) Subparagraph (E) of section 904(d)(1) of
22 the Internal Revenue Code of 1986, as in effect both
23 before and after the amendments made by section
24 1105 of the Taxpayer Relief Act of 1997, is hereby
25 repealed.

1 (2) Section 904(d)(2)(C)(iii) of such Code, as
 2 so in effect, is amended by striking subclause (II)
 3 and by redesignating subclause (III) as subclause
 4 (II).

5 (3) The last sentence of section 904(d)(2)(D) of
 6 such Code, as so in effect, is amended to read as fol-
 7 lows: “Such term does not include any financial
 8 services income.”.

9 (4) Section 904(d)(2)(E) of such Code is
 10 amended—

11 (A) by inserting “or (4)” after “paragraph
 12 (3)” in clause (i), and

13 (B) by striking clauses (ii) and (iv) and by
 14 redesignating clause (iii) as clause (ii).

15 (5) Section 904(d)(3)(F) of such Code is
 16 amended by striking “(D), or (E)” and inserting “or
 17 (D)”.

18 (6) Section 864(d)(5)(A)(i) of such Code is
 19 amended by striking “(C)(iii)(III)” and inserting
 20 “(C)(iii)(II)”.

21 (c) EFFECTIVE DATE.—The amendments made by
 22 this section shall apply to taxable years beginning after
 23 December 31, 2002.

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