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(Original Signature of Member)

111TH CONGRESS  
2D SESSION

**H. R.** \_\_\_\_\_

To amend the Internal Revenue Code of 1986 to repeal the expansion of certain information reporting requirements to corporations and to payments for property, to eliminate loopholes which encourage companies to move operations offshore, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mr. MURPHY of New York (for himself, Mr. OWENS, and [see ATTACHED LIST of cosponsors]) introduced the following bill; which was referred to the Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To amend the Internal Revenue Code of 1986 to repeal the expansion of certain information reporting requirements to corporations and to payments for property, to eliminate loopholes which encourage companies to move operations offshore, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE;**  
2 **TABLE OF CONTENTS.**

3 (a) **SHORT TITLE.**—This Act may be cited as the  
4 “Small Business Tax Relief Act of 2010”.

5 (b) **AMENDMENT OF 1986 CODE.**—Except as other-  
6 wise expressly provided, whenever in this Act an amend-  
7 ment or repeal is expressed in terms of an amendment  
8 to, or repeal of, a section or other provision, the reference  
9 shall be considered to be made to a section or other provi-  
10 sion of the Internal Revenue Code of 1986.

11 (c) **TABLE OF CONTENTS.**—The table of contents for  
12 this Act is as follows:

Sec. 1. Short title; amendment of 1986 Code; table of contents.

**TITLE I—REPEAL OF CERTAIN INFORMATION REPORTING  
REQUIREMENTS**

Sec. 101. Repeal of expansion of certain information reporting requirements to corporations and to payments for property.

**TITLE II—REVENUE PROVISIONS**

**Subtitle A—Foreign Provisions**

Sec. 201. Rules to prevent splitting foreign tax credits from the income to which they relate.

Sec. 202. Denial of foreign tax credit with respect to foreign income not subject to United States taxation by reason of covered asset acquisitions.

Sec. 203. Separate application of foreign tax credit limitation, etc., to items resourced under treaties.

Sec. 204. Limitation on the amount of foreign taxes deemed paid with respect to section 956 inclusions.

Sec. 205. Special rule with respect to certain redemptions by foreign subsidiaries.

Sec. 206. Modification of affiliation rules for purposes of rules allocating interest expense.

Sec. 207. Termination of special rules for interest and dividends received from persons meeting the 80-percent foreign business requirements.

Sec. 208. Source rules for income on guarantees.

Sec. 209. Limitation on extension of statute of limitations for failure to notify Secretary of certain foreign transfers.

Subtitle B—Other Revenue Provisions

Sec. 211. Required minimum 10-year term, etc., for grantor retained annuity trusts.

Sec. 212. Crude tall oil ineligible for cellulosic biofuel producer credit.

Sec. 213. Increase in information return penalties.

Sec. 214. Treatment of securities of a controlled corporation exchanged for assets in certain reorganizations.

TITLE III—PAYGO COMPLIANCE

Sec. 301. Paygo compliance.

1 **TITLE I—REPEAL OF CERTAIN**  
2 **INFORMATION REPORTING**  
3 **REQUIREMENTS**

4 **SEC. 101. REPEAL OF EXPANSION OF CERTAIN INFORMA-**  
5 **TION REPORTING REQUIREMENTS TO COR-**  
6 **PORATIONS AND TO PAYMENTS FOR PROP-**  
7 **ERTY.**

8 Section 9006 of the Patient Protection and Afford-  
9 able Care Act is repealed. Each provision of law amended  
10 by such section is amended to read as such provision  
11 would read if such section had never been enacted.

12 **TITLE II—REVENUE PROVISIONS**  
13 **Subtitle A—Foreign Provisions**

14 **SEC. 201. RULES TO PREVENT SPLITTING FOREIGN TAX**  
15 **CREDITS FROM THE INCOME TO WHICH THEY**  
16 **RELATE.**

17 (a) IN GENERAL.—Subpart A of part III of sub-  
18 chapter N of chapter 1 is amended by adding at the end  
19 the following new section:

1 **“SEC. 909. SUSPENSION OF TAXES AND CREDITS UNTIL RE-**  
2 **LATED INCOME TAKEN INTO ACCOUNT.**

3 “(a) IN GENERAL.—If there is a foreign tax credit  
4 splitting event with respect to a foreign income tax paid  
5 or accrued by the taxpayer, such tax shall not be taken  
6 into account for purposes of this title before the taxable  
7 year in which the related income is taken into account  
8 under this chapter by the taxpayer.

9 “(b) SPECIAL RULES WITH RESPECT TO SECTION  
10 902 CORPORATIONS.—If there is a foreign tax credit split-  
11 ting event with respect to a foreign income tax paid or  
12 accrued by a section 902 corporation, such tax shall not  
13 be taken into account—

14 “(1) for purposes of section 902 or 960, or

15 “(2) for purposes of determining earnings and  
16 profits under section 964(a),

17 before the taxable year in which the related income is  
18 taken into account under this chapter by such section 902  
19 corporation or a domestic corporation which meets the  
20 ownership requirements of subsection (a) or (b) of section  
21 902 with respect to such section 902 corporation.

22 “(c) SPECIAL RULES.—For purposes of this sec-  
23 tion—

24 “(1) APPLICATION TO PARTNERSHIPS, ETC.—In  
25 the case of a partnership, subsections (a) and (b)  
26 shall be applied at the partner level. Except as oth-

1       erwise provided by the Secretary, a rule similar to  
2       the rule of the preceding sentence shall apply in the  
3       case of any S corporation or trust.

4           “(2) TREATMENT OF FOREIGN TAXES AFTER  
5       SUSPENSION.—In the case of any foreign income tax  
6       not taken into account by reason of subsection (a)  
7       or (b), except as otherwise provided by the Sec-  
8       retary, such tax shall be so taken into account in the  
9       taxable year referred to in such subsection (other  
10      than for purposes of section 986(a)) as a foreign in-  
11      come tax paid or accrued in such taxable year.

12      “(d) DEFINITIONS.—For purposes of this section—

13           “(1) FOREIGN TAX CREDIT SPLITTING  
14      EVENT.—There is a foreign tax credit splitting event  
15      with respect to a foreign income tax if the related  
16      income is (or will be) taken into account under this  
17      chapter by a covered person.

18           “(2) FOREIGN INCOME TAX.—The term ‘foreign  
19      income tax’ means any income, war profits, or excess  
20      profits tax paid or accrued to any foreign country or  
21      to any possession of the United States.

22           “(3) RELATED INCOME.—The term ‘related in-  
23      come’ means, with respect to any portion of any for-  
24      eign income tax, the income (or, as appropriate,

1 earnings and profits) to which such portion of for-  
2 eign income tax relates.

3 “(4) COVERED PERSON.—The term ‘covered  
4 person’ means, with respect to any person who pays  
5 or accrues a foreign income tax (hereafter in this  
6 paragraph referred to as the ‘payor’)—

7 “(A) any entity in which the payor holds,  
8 directly or indirectly, at least a 10 percent own-  
9 ership interest (determined by vote or value),

10 “(B) any person which holds, directly or  
11 indirectly, at least a 10 percent ownership in-  
12 terest (determined by vote or value) in the  
13 payor,

14 “(C) any person which bears a relationship  
15 to the payor described in section 267(b) or  
16 707(b), and

17 “(D) any other person specified by the  
18 Secretary for purposes of this paragraph.

19 “(5) SECTION 902 CORPORATION.—The term  
20 ‘section 902 corporation’ means any foreign corpora-  
21 tion with respect to which one or more domestic cor-  
22 porations meets the ownership requirements of sub-  
23 section (a) or (b) of section 902.

24 “(e) REGULATIONS.—The Secretary may issue such  
25 regulations or other guidance as is necessary or appro-

1 piate to carry out the purposes of this section, including  
2 regulations or other guidance which provides—

3 “(1) appropriate exceptions from the provisions  
4 of this section, and

5 “(2) for the proper application of this section  
6 with respect to hybrid instruments.”.

7 (b) CLERICAL AMENDMENT.—The table of sections  
8 for subpart A of part III of subchapter N of chapter 1  
9 is amended by adding at the end the following new item:

“Sec. 909. Suspension of taxes and credits until related income taken into ac-  
count.”.

10 (c) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to—

12 (1) foreign income taxes (as defined in section  
13 909(d) of the Internal Revenue Code of 1986, as  
14 added by this section) paid or accrued after Decem-  
15 ber 31, 2010; and

16 (2) foreign income taxes (as so defined) paid or  
17 accrued by a section 902 corporation (as so defined)  
18 on or before such date (and not deemed paid under  
19 section 902(a) or 960 of such Code on or before  
20 such date), but only for purposes of applying sec-  
21 tions 902 and 960 with respect to periods after such  
22 date.

1 Section 909(b)(2) of the Internal Revenue Code of 1986,  
2 as added by this section, shall not apply to foreign income  
3 taxes described in paragraph (2).

4 **SEC. 202. DENIAL OF FOREIGN TAX CREDIT WITH RESPECT**  
5 **TO FOREIGN INCOME NOT SUBJECT TO**  
6 **UNITED STATES TAXATION BY REASON OF**  
7 **COVERED ASSET ACQUISITIONS.**

8 (a) IN GENERAL.—Section 901 is amended by redес-  
9 ignating subsection (m) as subsection (n) and by inserting  
10 after subsection (l) the following new subsection:

11 “(m) DENIAL OF FOREIGN TAX CREDIT WITH RE-  
12 SPECT TO FOREIGN INCOME NOT SUBJECT TO UNITED  
13 STATES TAXATION BY REASON OF COVERED ASSET AC-  
14 QUISTIONS.—

15 “(1) IN GENERAL.—In the case of a covered  
16 asset acquisition, the disqualified portion of any for-  
17 eign income tax determined with respect to the in-  
18 come or gain attributable to the relevant foreign as-  
19 sets—

20 “(A) shall not be taken into account in de-  
21 termining the credit allowed under subsection  
22 (a), and

23 “(B) in the case of a foreign income tax  
24 paid by a section 902 corporation (as defined in



1 section 909(d)(5)), shall not be taken into ac-  
2 count for purposes of section 902 or 960.

3 “(2) COVERED ASSET ACQUISITION.—For pur-  
4 poses of this section, the term ‘covered asset acqui-  
5 sition’ means—

6 “(A) a qualified stock purchase (as defined  
7 in section 338(d)(3)) to which section 338(a)  
8 applies,

9 “(B) any transaction which—

10 “(i) is treated as an acquisition of as-  
11 sets for purposes of this chapter, and

12 “(ii) is treated as the acquisition of  
13 stock of a corporation (or is disregarded)  
14 for purposes of the foreign income taxes of  
15 the relevant jurisdiction,

16 “(C) any acquisition of an interest in a  
17 partnership which has an election in effect  
18 under section 754, and

19 “(D) to the extent provided by the Sec-  
20 retary, any other similar transaction.

21 “(3) DISQUALIFIED PORTION.—For purposes of  
22 this section—

23 “(A) IN GENERAL.—The term ‘disqualified  
24 portion’ means, with respect to any covered

1           asset acquisition, for any taxable year, the ratio  
2           (expressed as a percentage) of—

3                   “(i) the aggregate basis differences  
4                   (but not below zero) allocable to such tax-  
5                   able year under subparagraph (B) with re-  
6                   spect to all relevant foreign assets, divided  
7                   by

8                   “(ii) the income on which the foreign  
9                   income tax referred to in paragraph (1) is  
10                  determined (or, if the taxpayer fails to sub-  
11                  stantiate such income to the satisfaction of  
12                  the Secretary, such income shall be deter-  
13                  mined by dividing the amount of such for-  
14                  eign income tax by the highest marginal  
15                  tax rate applicable to such income in the  
16                  relevant jurisdiction).

17                  “(B) ALLOCATION OF BASIS DIF-  
18                  FERENCE.—For purposes of subparagraph  
19                  (A)(i)—

20                   “(i) IN GENERAL.—The basis dif-  
21                   ference with respect to any relevant foreign  
22                   asset shall be allocated to taxable years  
23                   using the applicable cost recovery method  
24                   under this chapter.

1           “(ii) SPECIAL RULE FOR DISPOSITION  
2           OF ASSETS.—Except as otherwise provided  
3           by the Secretary, in the case of the disposi-  
4           tion of any relevant foreign asset—

5                   “(I) the basis difference allocated  
6                   to the taxable year which includes the  
7                   date of such disposition shall be the  
8                   excess of the basis difference with re-  
9                   spect to such asset over the aggregate  
10                  basis difference with respect to such  
11                  asset which has been allocated under  
12                  clause (i) to all prior taxable years,  
13                  and

14                   “(II) no basis difference with re-  
15                   spect to such asset shall be allocated  
16                   under clause (i) to any taxable year  
17                   thereafter.

18           “(C) BASIS DIFFERENCE.—

19                   “(i) IN GENERAL.—The term ‘basis  
20                   difference’ means, with respect to any rel-  
21                   evant foreign asset, the excess of—

22                   “(I) the adjusted basis of such  
23                   asset immediately after the covered  
24                   asset acquisition, over

1                   “(II) the adjusted basis of such  
2                   asset immediately before the covered  
3                   asset acquisition.

4                   “(ii) BUILT-IN LOSS ASSETS.—In the  
5                   case of a relevant foreign asset with re-  
6                   spect to which the amount described in  
7                   clause (i)(II) exceeds the amount described  
8                   in clause (i)(I), such excess shall be taken  
9                   into account under this subsection as a  
10                  basis difference of a negative amount.

11                  “(iii) SPECIAL RULE FOR SECTION 338  
12                  ELECTIONS.—In the case of a covered  
13                  asset acquisition described in paragraph  
14                  (2)(A), the covered asset acquisition shall  
15                  be treated for purposes of this subpara-  
16                  graph as occurring at the close of the ac-  
17                  quisition date (as defined in section  
18                  338(h)(2)).

19                  “(4) RELEVANT FOREIGN ASSETS.—For pur-  
20                  poses of this section, the term ‘relevant foreign  
21                  asset’ means, with respect to any covered asset ac-  
22                  quisition, any asset (including any goodwill, going  
23                  concern value, or other intangible) with respect to  
24                  such acquisition if income, deduction, gain, or loss  
25                  attributable to such asset is taken into account in

1 determining the foreign income tax referred to in  
2 paragraph (1).

3 “(5) FOREIGN INCOME TAX.—For purposes of  
4 this section, the term ‘foreign income tax’ means  
5 any income, war profits, or excess profits tax paid  
6 or accrued to any foreign country or to any posses-  
7 sion of the United States.

8 “(6) TAXES ALLOWED AS A DEDUCTION, ETC.—  
9 Sections 275 and 78 shall not apply to any tax  
10 which is not allowable as a credit under subsection  
11 (a) by reason of this subsection.

12 “(7) REGULATIONS.—The Secretary may issue  
13 such regulations or other guidance as is necessary or  
14 appropriate to carry out the purposes of this sub-  
15 section, including to exempt from the application of  
16 this subsection certain covered asset acquisitions,  
17 and relevant foreign assets with respect to which the  
18 basis difference is de minimis.”.

19 (b) EFFECTIVE DATE.—

20 (1) IN GENERAL.—Except as provided in para-  
21 graph (2), the amendments made by this section  
22 shall apply to covered asset acquisitions (as defined  
23 in section 901(m)(2) of the Internal Revenue Code  
24 of 1986, as added by this section) after December  
25 31, 2010.

1           (2) TRANSITION RULE.—The amendments  
2           made by this section shall not apply to any covered  
3           asset acquisition (as so defined) with respect to  
4           which the transferor and the transferee are not re-  
5           lated if such acquisition is—

6                   (A) made pursuant to a written agreement  
7                   which was binding on May 20, 2010, and at all  
8                   times thereafter,

9                   (B) described in a ruling request submitted  
10                  to the Internal Revenue Service on or before  
11                  such date; or

12                  (C) described on or before such date in a  
13                  public announcement or in a filing with the Se-  
14                  curities and Exchange Commission.

15           (3) RELATED PERSONS.—For purposes of this  
16           subsection, a person shall be treated as related to  
17           another person if the relationship between such per-  
18           sons is described in section 267 or 707(b) of the In-  
19           ternal Revenue Code of 1986.

20 **SEC. 203. SEPARATE APPLICATION OF FOREIGN TAX CRED-**  
21 **IT LIMITATION, ETC., TO ITEMS RESOURCED**  
22 **UNDER TREATIES.**

23           (a) IN GENERAL.—Subsection (d) of section 904 is  
24           amended by redesignating paragraph (6) as paragraph (7)

1 and by inserting after paragraph (5) the following new  
2 paragraph:

3           “(6) SEPARATE APPLICATION TO ITEMS  
4 RESOURCED UNDER TREATIES.—

5           “(A) IN GENERAL.—If—

6           “(i) without regard to any treaty obli-  
7 gation of the United States, any item of  
8 income would be treated as derived from  
9 sources within the United States,

10           “(ii) under a treaty obligation of the  
11 United States, such item would be treated  
12 as arising from sources outside the United  
13 States, and

14           “(iii) the taxpayer chooses the bene-  
15 fits of such treaty obligation,  
16 subsections (a), (b), and (c) of this section and  
17 sections 902, 907, and 960 shall be applied sep-  
18 arately with respect to each such item.

19           “(B) COORDINATION WITH OTHER PROVI-  
20 SIONS.—This paragraph shall not apply to any  
21 item of income to which subsection (h)(10) or  
22 section 865(h) applies.

23           “(C) REGULATIONS.—The Secretary may  
24 issue such regulations or other guidance as is  
25 necessary or appropriate to carry out the pur-

1           poses of this paragraph, including regulations  
2           or other guidance which provides that related  
3           items of income may be aggregated for pur-  
4           poses of this paragraph.”.

5           (b) **EFFECTIVE DATE.**—The amendments made by  
6 this section shall apply to taxable years beginning after  
7 the date of the enactment of this Act.

8   **SEC. 204. LIMITATION ON THE AMOUNT OF FOREIGN TAXES**  
9                           **DEEMED PAID WITH RESPECT TO SECTION**  
10                          **956 INCLUSIONS.**

11          (a) **IN GENERAL.**—Section 960 is amended by adding  
12 at the end the following new subsection:

13          “(c) **LIMITATION WITH RESPECT TO SECTION 956**  
14 **INCLUSIONS.**—

15               “(1) **IN GENERAL.**—If there is included under  
16 section 951(a)(1)(B) in the gross income of a do-  
17 mestic corporation any amount attributable to the  
18 earnings and profits of a foreign corporation which  
19 is a member of a qualified group (as defined in sec-  
20 tion 902(b)) with respect to the domestic corpora-  
21 tion, the amount of any foreign income taxes deemed  
22 to have been paid during the taxable year by such  
23 domestic corporation under section 902 by reason of  
24 subsection (a) with respect to such inclusion in gross  
25 income shall not exceed the amount of the foreign



1 income taxes which would have been deemed to have  
2 been paid during the taxable year by such domestic  
3 corporation if cash in an amount equal to the  
4 amount of such inclusion in gross income were dis-  
5 tributed as a series of distributions (determined  
6 without regard to any foreign taxes which would be  
7 imposed on an actual distribution) through the chain  
8 of ownership which begins with such foreign cor-  
9 poration and ends with such domestic corporation.

10 “(2) AUTHORITY TO PREVENT ABUSE.—The  
11 Secretary shall issue such regulations or other guid-  
12 ance as is necessary or appropriate to carry out the  
13 purposes of this subsection, including regulations or  
14 other guidance which prevent the inappropriate use  
15 of the foreign corporation’s foreign income taxes not  
16 deemed paid by reason of paragraph (1).”.

17 (b) EFFECTIVE DATE.—The amendment made by  
18 this section shall apply to acquisitions of United States  
19 property (as defined in section 956(c) of the Internal Rev-  
20 enue Code of 1986) after December 31, 2010.

21 **SEC. 205. SPECIAL RULE WITH RESPECT TO CERTAIN RE-**  
22 **DEMPTIONS BY FOREIGN SUBSIDIARIES.**

23 (a) IN GENERAL.—Paragraph (5) of section 304(b)  
24 is amended by redesignating subparagraph (B) as sub-

1 paragraph (C) and by inserting after subparagraph (A)  
2 the following new subparagraph:

3           “(B) SPECIAL RULE IN CASE OF FOREIGN  
4           ACQUIRING CORPORATION.—In the case of any  
5           acquisition to which subsection (a) applies in  
6           which the acquiring corporation is a foreign  
7           corporation, no earnings and profits shall be  
8           taken into account under paragraph (2)(A)  
9           (and subparagraph (A) shall not apply) if more  
10          than 50 percent of the dividends arising from  
11          such acquisition (determined without regard to  
12          this subparagraph) would neither—

13                 “(i) be subject to tax under this chap-  
14                 ter for the taxable year in which the divi-  
15                 dends arise, nor

16                 “(ii) be includible in the earnings and  
17                 profits of a controlled foreign corporation  
18                 (as defined in section 957 and without re-  
19                 gard to section 953(c)).”.

20          (b) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to acquisitions after December 31,  
22 2010.

1 **SEC. 206. MODIFICATION OF AFFILIATION RULES FOR PUR-**  
2 **POSES OF RULES ALLOCATING INTEREST EX-**  
3 **PENSE.**

4 (a) **IN GENERAL.**—Subparagraph (A) of section  
5 864(e)(5) is amended by adding at the end the following:  
6 “Notwithstanding the preceding sentence, a foreign cor-  
7 poration shall be treated as a member of the affiliated  
8 group if—

9 “(i) more than 50 percent of the gross  
10 income of such foreign corporation for the  
11 taxable year is effectively connected with  
12 the conduct of a trade or business within  
13 the United States, and

14 “(ii) at least 80 percent of either the  
15 vote or value of all outstanding stock of  
16 such foreign corporation is owned directly  
17 or indirectly by members of the affiliated  
18 group (determined with regard to this sen-  
19 tence).”.

20 (b) **EFFECTIVE DATE.**—The amendment made by  
21 this section shall apply to taxable years beginning after  
22 the date of the enactment of this Act.

1 **SEC. 207. TERMINATION OF SPECIAL RULES FOR INTEREST**  
2 **AND DIVIDENDS RECEIVED FROM PERSONS**  
3 **MEETING THE 80-PERCENT FOREIGN BUSI-**  
4 **NESS REQUIREMENTS.**

5 (a) IN GENERAL.—Paragraph (1) of section 861(a)  
6 is amended by striking subparagraph (A) and by redesignig-  
7 nating subparagraphs (B) and (C) as subparagraphs (A)  
8 and (B), respectively.

9 (b) GRANDFATHER RULE WITH RESPECT TO WITH-  
10 HOLDING ON INTEREST AND DIVIDENDS RECEIVED FROM  
11 PERSONS MEETING THE 80-PERCENT FOREIGN BUSI-  
12 NESS REQUIREMENTS.—

13 (1) IN GENERAL.—Subparagraph (B) of section  
14 871(i)(2) is amended to read as follows:

15 “(B) The active foreign business percent-  
16 age of—

17 “(i) any dividend paid by an existing  
18 80/20 company, and

19 “(ii) any interest paid by an existing  
20 80/20 company.”.

21 (2) DEFINITIONS AND SPECIAL RULES.—Sec-  
22 tion 871 is amended by redesignating subsections (l)  
23 and (m) as subsections (m) and (n), respectively,  
24 and by inserting after subsection (k) the following  
25 new subsection:

1           “(1) RULES RELATING TO EXISTING 80/20 COMPA-  
2 NIES.—For purposes of this subsection and subsection  
3 (i)(2)(B)—

4                   “(1) EXISTING 80/20 COMPANY.—

5                           “(A) IN GENERAL.—The term ‘existing 80/  
6 20 company’ means any corporation if—

7                                   “(i) such corporation met the 80-per-  
8 cent foreign business requirements of sec-  
9 tion 861(c)(1) (as in effect before the date  
10 of the enactment of this subsection) for  
11 such corporation’s last taxable year begin-  
12 ning before January 1, 2011,

13                                   “(ii) such corporation meets the 80-  
14 percent foreign business requirements of  
15 subparagraph (B) with respect to each tax-  
16 able year after the taxable year referred to  
17 in clause (i), and

18                                   “(iii) there has not been an addition  
19 of a substantial line of business with re-  
20 spect to such corporation after the date of  
21 the enactment of this subsection.

22                           “(B) FOREIGN BUSINESS REQUIRE-  
23 MENTS.—

24                                   “(i) IN GENERAL.—Except as pro-  
25 vided in clause (iv), a corporation meets

1 the 80-percent foreign business require-  
2 ments of this subparagraph if it is shown  
3 to the satisfaction of the Secretary that at  
4 least 80 percent of the gross income from  
5 all sources of such corporation for the test-  
6 ing period is active foreign business in-  
7 come.

8 “(ii) ACTIVE FOREIGN BUSINESS IN-  
9 COME.—For purposes of clause (i), the  
10 term ‘active foreign business income’  
11 means gross income which—

12 “(I) is derived from sources out-  
13 side the United States (as determined  
14 under this subchapter), and

15 “(II) is attributable to the active  
16 conduct of a trade or business in a  
17 foreign country or possession of the  
18 United States.

19 “(iii) TESTING PERIOD.—For pur-  
20 poses of this subsection, the term ‘testing  
21 period’ means the 3-year period ending  
22 with the close of the taxable year of the  
23 corporation preceding the payment (or  
24 such part of such period as may be appli-  
25 cable). If the corporation has no gross in-

1                   come for such 3-year period (or part there-  
2                   of), the testing period shall be the taxable  
3                   year in which the payment is made.

4                   “(iv) TRANSITION RULE.—In the case  
5                   of a taxable year for which the testing pe-  
6                   riod includes 1 or more taxable years be-  
7                   ginning before January 1, 2011—

8                   “(I) a corporation meets the 80-  
9                   percent foreign business requirements  
10                  of this subparagraph if and only if the  
11                  weighted average of—

12                  “(aa) the percentage of the  
13                  corporation’s gross income from  
14                  all sources that is active foreign  
15                  business income (as defined in  
16                  subparagraph (B) of section  
17                  861(c)(1) (as in effect before the  
18                  date of the enactment of this  
19                  subsection)) for the portion of  
20                  the testing period that includes  
21                  taxable years beginning before  
22                  January 1, 2011, and

23                  “(bb) the percentage of the  
24                  corporation’s gross income from  
25                  all sources that is active foreign

1 business income (as defined in  
2 clause (ii) of this subparagraph)  
3 for the portion of the testing pe-  
4 riod, if any, that includes taxable  
5 years beginning on or after Janu-  
6 ary 1, 2011,

7 is at least 80 percent, and

8 “(II) the active foreign business  
9 percentage for such taxable year shall  
10 equal the weighted average percentage  
11 determined under subclause (I).

12 “(2) ACTIVE FOREIGN BUSINESS PERCENT-  
13 AGE.—Except as provided in paragraph (1)(B)(iv),  
14 the term ‘active foreign business percentage’ means,  
15 with respect to any existing 80/20 company, the per-  
16 centage which—

17 “(A) the active foreign business income of  
18 such company for the testing period, is of

19 “(B) the gross income of such company for  
20 the testing period from all sources.

21 “(3) AGGREGATION RULES.—For purposes of  
22 applying paragraph (1) (other than subparagraphs  
23 (A)(i) and (B)(iv) thereof) and paragraph (2)—

24 “(A) IN GENERAL.—The corporation re-  
25 ferred to in paragraph (1)(A) and all of such



1 corporation's subsidiaries shall be treated as  
2 one corporation.

3 “(B) SUBSIDIARIES.—For purposes of sub-  
4 paragraph (A), the term ‘subsidiary’ means any  
5 corporation in which the corporation referred to  
6 in subparagraph (A) owns (directly or indi-  
7 rectly) stock meeting the requirements of sec-  
8 tion 1504(a)(2) (determined by substituting ‘50  
9 percent’ for ‘80 percent’ each place it appears  
10 and without regard to section 1504(b)(3)).

11 “(4) REGULATIONS.—The Secretary may issue  
12 such regulations or other guidance as is necessary or  
13 appropriate to carry out the purposes of this section,  
14 including regulations or other guidance which pro-  
15 vide for the proper application of the aggregation  
16 rules described in paragraph (3).”.

17 (c) CONFORMING AMENDMENTS.—

18 (1) Section 861 is amended by striking sub-  
19 section (c) and by redesignating subsections (d), (e),  
20 and (f) as subsections (c), (d), and (e), respectively.

21 (2) Paragraph (9) of section 904(h) is amended  
22 to read as follows:

23 “(9) TREATMENT OF CERTAIN DOMESTIC COR-  
24 PORATIONS.—In the case of any dividend treated as  
25 not from sources within the United States under

1 section 861(a)(2)(A), the corporation paying such  
2 dividend shall be treated for purposes of this sub-  
3 section as a United States-owned foreign corpora-  
4 tion.”.

5 (3) Subsection (c) of section 2104 is amended  
6 in the last sentence by striking “or to a debt obliga-  
7 tion of a domestic corporation” and all that follows  
8 and inserting a period.

9 (d) EFFECTIVE DATE.—

10 (1) IN GENERAL.—Except as provided in para-  
11 graph (2), the amendments made by this section  
12 shall apply to taxable years beginning after Decem-  
13 ber 31, 2010.

14 (2) GRANDFATHER RULE FOR OUTSTANDING  
15 DEBT OBLIGATIONS.—

16 (A) IN GENERAL.—The amendments made  
17 by this section shall not apply to payments of  
18 interest on obligations issued before the date of  
19 the enactment of this Act.

20 (B) EXCEPTION FOR RELATED PARTY  
21 DEBT.—Subparagraph (A) shall not apply to  
22 any interest which is payable to a related per-  
23 son (determined under rules similar to the rules  
24 of section 954(d)(3)).

1 (C) SIGNIFICANT MODIFICATIONS TREAT-  
2 ED AS NEW ISSUES.—For purposes of subpara-  
3 graph (A), a significant modification of the  
4 terms of any obligation (including any extension  
5 of the term of such obligation) shall be treated  
6 as a new issue.

7 **SEC. 208. SOURCE RULES FOR INCOME ON GUARANTEES.**

8 (a) AMOUNTS SOURCED WITHIN THE UNITED  
9 STATES.—Subsection (a) of section 861 is amended by  
10 adding at the end the following new paragraph:

11 “(9) GUARANTEES.—Amounts received, directly  
12 or indirectly, from—

13 “(A) a noncorporate resident or domestic  
14 corporation for the provision of a guarantee of  
15 any indebtedness of such resident or corpora-  
16 tion, or

17 “(B) any foreign person for the provision  
18 of a guarantee of any indebtedness of such per-  
19 son, if such amount is connected with income  
20 which is effectively connected (or treated as ef-  
21 fectively connected) with the conduct of a trade  
22 or business in the United States.”.

23 (b) AMOUNTS SOURCED WITHOUT THE UNITED  
24 STATES.—Subsection (a) of section 862 is amended by  
25 striking “and” at the end of paragraph (7), by striking

1 the period at the end of paragraph (8) and inserting “;  
2 and”, and by adding at the end the following new para-  
3 graph:

4 “(9) amounts received, directly or indirectly,  
5 from a foreign person for the provision of a guar-  
6 antee of indebtedness of such person other than  
7 amounts which are derived from sources within the  
8 United States as provided in section 861(a)(9).”.

9 (c) CONFORMING AMENDMENT.—Clause (ii) of sec-  
10 tion 864(c)(4)(B) is amended by striking “dividends or in-  
11 terest” and inserting “dividends, interest, or amounts re-  
12 ceived for the provision of guarantees of indebtedness”.

13 (d) EFFECTIVE DATE.—The amendments made by  
14 this section shall apply to guarantees issued after the date  
15 of the enactment of this Act.

16 **SEC. 209. LIMITATION ON EXTENSION OF STATUTE OF LIM-**  
17 **TATIONS FOR FAILURE TO NOTIFY SEC-**  
18 **RETARY OF CERTAIN FOREIGN TRANSFERS.**

19 (a) IN GENERAL.—Paragraph (8) of section 6501(c)  
20 is amended—

21 (1) by striking “In the case of any information”  
22 and inserting the following:

23 “(A) IN GENERAL.—In the case of any in-  
24 formation”; and

25 (2) by adding at the end the following:

1           “(B) APPLICATION TO FAILURES DUE TO  
2 REASONABLE CAUSE.—If the failure to furnish  
3 the information referred to in subparagraph (A)  
4 is due to reasonable cause and not willful ne-  
5 glect, subparagraph (A) shall apply only to the  
6 item or items related to such failure.”.

7           (b) EFFECTIVE DATE.—The amendments made by  
8 this section shall take effect as if included in section 513  
9 of the Hiring Incentives to Restore Employment Act.

## 10           **Subtitle B—Other Revenue** 11           **Provisions**

### 12           **SEC. 211. REQUIRED MINIMUM 10-YEAR TERM, ETC., FOR** 13           **GRANTOR RETAINED ANNUITY TRUSTS.**

14           (a) IN GENERAL.—Subsection (b) of section 2702 is  
15 amended—

16           (1) by redesignating paragraphs (1), (2) and  
17 (3) as subparagraphs (A), (B), and (C), respectively,  
18 and by moving such subparagraphs (as so redesign-  
19 ated) 2 ems to the right,

20           (2) by striking “For purposes of” and inserting  
21 the following:

22           “(1) IN GENERAL.—For purposes of”, and

23           (3) by striking “paragraph (1) or (2)” in para-  
24 graph (1)(C) (as so redesignated) and inserting  
25 “subparagraph (A) or (B)”, and

1           (4) by adding at the end the following new  
2 paragraph:

3           “(2) ADDITIONAL REQUIREMENTS WITH RE-  
4 SPECT TO GRANTOR RETAINED ANNUITIES.—For  
5 purposes of subsection (a), in the case of an interest  
6 described in paragraph (1)(A) (determined without  
7 regard to this paragraph) which is retained by the  
8 transferor, such interest shall be treated as de-  
9 scribed in such paragraph only if—

10           “(A) the right to receive the fixed amounts  
11 referred to in such paragraph is for a term of  
12 not less than 10 years,

13           “(B) such fixed amounts, when determined  
14 on an annual basis, do not decrease relative to  
15 any prior year during the first 10 years of the  
16 term referred to in subparagraph (A), and

17           “(C) the remainder interest has a value  
18 greater than zero determined as of the time of  
19 the transfer.”.

20           (b) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to transfers made after the date  
22 of the enactment of this Act.

1 **SEC. 212. CRUDE TALL OIL INELIGIBLE FOR CELLULOSIC**  
2 **BIOFUEL PRODUCER CREDIT.**

3 (a) IN GENERAL.—Clause (iii) of section 40(b)(6)(E)  
4 is amended—

5 (1) by striking “or” at the end of subclause (I),

6 (2) by striking the period at the end of sub-  
7 clause (II) and inserting “, or”,

8 (3) by adding at the end the following new sub-  
9 clause:

10 “(III) such fuel has an acid num-  
11 ber greater than 25.”, and

12 (4) by striking “UNPROCESSED” in the heading  
13 and inserting “CERTAIN”.

14 (b) EFFECTIVE DATE.—The amendment made by  
15 this section shall apply to fuels sold or used on or after  
16 January 1, 2010.

17 **SEC. 213. INCREASE IN INFORMATION RETURN PENALTIES.**

18 (a) FAILURE TO FILE CORRECT INFORMATION RE-  
19 TURNS.—

20 (1) IN GENERAL.—Subsections (a)(1),  
21 (b)(1)(A), and (b)(2)(A) of section 6721 are each  
22 amended by striking “\$50” and inserting “\$100”.

23 (2) AGGREGATE ANNUAL LIMITATION.—Sub-  
24 sections (a)(1), (d)(1)(A), and (e)(3)(A) of section  
25 6721 are each amended by striking “\$250,000” and  
26 inserting “\$1,500,000”.

1 (b) REDUCTION WHERE CORRECTION WITHIN 30  
2 DAYS.—

3 (1) IN GENERAL.—Subparagraph (A) of section  
4 6721(b)(1) is amended by striking “\$15” and insert-  
5 ing “\$30”.

6 (2) AGGREGATE ANNUAL LIMITATION.—Sub-  
7 sections (b)(1)(B) and (d)(1)(B) of section 6721 are  
8 each amended by striking “\$75,000” and inserting  
9 “\$250,000”.

10 (c) REDUCTION WHERE CORRECTION ON OR BEFORE  
11 AUGUST 1.—

12 (1) IN GENERAL.—Subparagraph (A) of section  
13 6721(b)(2) is amended by striking “\$30” and insert-  
14 ing “\$60”.

15 (2) AGGREGATE ANNUAL LIMITATION.—Sub-  
16 sections (b)(2)(B) and (d)(1)(C) of section 6721 are  
17 each amended by striking “\$150,000” and inserting  
18 “\$500,000”.

19 (d) AGGREGATE ANNUAL LIMITATIONS FOR PER-  
20 SONS WITH GROSS RECEIPTS OF NOT MORE THAN  
21 \$5,000,000.—

22 (1) IN GENERAL.—Paragraph (1) of section  
23 6721(d) is amended—

24 (A) by striking “\$100,000” in subpara-  
25 graph (A) and inserting “\$500,000”,



1 (B) by striking “\$25,000” in subpara-  
2 graph (B) and inserting “\$75,000”, and

3 (C) by striking “\$50,000” in subparagraph  
4 (C) and inserting “\$200,000”.

5 (2) TECHNICAL AMENDMENT.—Paragraph (1)  
6 of section 6721(d) is amended by striking “such tax-  
7 able year” and inserting “such calendar year”.

8 (e) PENALTY IN CASE OF INTENTIONAL DIS-  
9 REGARD.—Paragraph (2) of section 6721(e) is amended  
10 by striking “\$100” and inserting “\$250”.

11 (f) ADJUSTMENT FOR INFLATION.—Section 6721 is  
12 amended by adding at the end the following new sub-  
13 section:

14 “(f) ADJUSTMENT FOR INFLATION.—

15 “(1) IN GENERAL.—In the case of any calendar  
16 year beginning after 2014, each of the dollar  
17 amounts under subsections (a), (b), (d) (other than  
18 paragraph (2)(A) thereof), and (e) shall be increased  
19 by such dollar amount multiplied by the cost-of-liv-  
20 ing adjustment determined under section 1(f)(3) de-  
21 termined by substituting ‘calendar year 2011’ for  
22 ‘calendar year 1992’ in subparagraph (B) thereof.

23 “(2) ADDITIONAL ADJUSTMENTS MADE ONLY  
24 EVERY FIFTH YEAR.—Notwithstanding paragraph  
25 (1), in the case of any calendar year beginning after



1           “(2) FAILURES SUBJECT TO PENALTY.—For  
2 purposes of paragraph (1), the failures described in  
3 this paragraph are—

4           “(A) any failure to furnish a payee state-  
5 ment on or before the date prescribed therefor  
6 to the person to whom such statement is re-  
7 quired to be furnished, and

8           “(B) any failure to include all of the infor-  
9 mation required to be shown on a payee state-  
10 ment or the inclusion of incorrect information.

11       “(b) REDUCTION WHERE CORRECTION IN SPECIFIED  
12 PERIOD.—

13       “(1) CORRECTION WITHIN 30 DAYS.—If any  
14 failure described in subsection (a)(2) is corrected on  
15 or before the day 30 days after the required filing  
16 date—

17       “(A) the penalty imposed by subsection (a)  
18 shall be \$30 in lieu of \$100, and

19       “(B) the total amount imposed on the per-  
20 son for all such failures during any calendar  
21 year which are so corrected shall not exceed  
22 \$250,000.

23       “(2) FAILURES CORRECTED ON OR BEFORE AU-  
24 GUST 1.—If any failure described in subsection  
25 (a)(2) is corrected after the 30th day referred to in

1 paragraph (1) but on or before August 1 of the cal-  
2 endar year in which the required filing date occurs—

3 “(A) the penalty imposed by subsection (a)  
4 shall be \$60 in lieu of \$100, and

5 “(B) the total amount imposed on the per-  
6 son for all such failures during the calendar  
7 year which are so corrected shall not exceed  
8 \$500,000.

9 “(c) EXCEPTION FOR DE MINIMIS FAILURES.—

10 “(1) IN GENERAL.—If—

11 “(A) a payee statement is furnished to the  
12 person to whom such statement is required to  
13 be furnished,

14 “(B) there is a failure described in sub-  
15 section (a)(2)(B) (determined after the applica-  
16 tion of section 6724(a)) with respect to such  
17 statement, and

18 “(C) such failure is corrected on or before  
19 August 1 of the calendar year in which the re-  
20 quired filing date occurs,

21 for purposes of this section, such statement shall be  
22 treated as having been furnished with all of the cor-  
23 rect required information.

1           “(2) LIMITATION.—The number of payee state-  
2           ments to which paragraph (1) applies for any cal-  
3           endar year shall not exceed the greater of—

4                   “(A) 10, or

5                   “(B) one-half of 1 percent of the total  
6           number of payee statements required to be filed  
7           by the person during the calendar year.

8           “(d) LOWER LIMITATIONS FOR PERSONS WITH  
9           GROSS RECEIPTS OF NOT MORE THAN \$5,000,000.—

10           “(1) IN GENERAL.—If any person meets the  
11           gross receipts test of paragraph (2) with respect to  
12           any calendar year, with respect to failures during  
13           such calendar year—

14                   “(A) subsection (a)(1) shall be applied by  
15           substituting ‘\$500,000’ for ‘\$1,500,000’,

16                   “(B) subsection (b)(1)(B) shall be applied  
17           by substituting ‘\$75,000’ for ‘\$250,000’, and

18                   “(C) subsection (b)(2)(B) shall be applied  
19           by substituting ‘\$200,000’ for ‘\$500,000’.

20           “(2) GROSS RECEIPTS TEST.—A person meets  
21           the gross receipts test of this paragraph if such per-  
22           son meets the gross receipts test of section  
23           6721(d)(2).

24           “(e) PENALTY IN CASE OF INTENTIONAL DIS-  
25           REGARD.—If 1 or more failures to which subsection (a)

1 applies are due to intentional disregard of the requirement  
2 to furnish a payee statement (or the correct information  
3 reporting requirement), then, with respect to each such  
4 failure—

5 “(1) subsections (b), (c), and (d) shall not  
6 apply,

7 “(2) the penalty imposed under subsection  
8 (a)(1) shall be \$250, or, if greater—

9 “(A) in the case of a payee statement  
10 other than a statement required under section  
11 6045(b), 6041A(e) (in respect of a return re-  
12 quired under section 6041A(b)), 6050H(d),  
13 6050J(e), 6050K(b), or 6050L(c), 10 percent  
14 of the aggregate amount of the items required  
15 to be reported correctly, or

16 “(B) in the case of a payee statement re-  
17 quired under section 6045(b), 6050K(b), or  
18 6050L(c), 5 percent of the aggregate amount of  
19 the items required to be reported correctly, and

20 “(3) in the case of any penalty determined  
21 under paragraph (2)—

22 “(A) the \$1,500,000 limitation under sub-  
23 section (a) shall not apply, and

1           “(B) such penalty shall not be taken into  
2           account in applying such limitation to penalties  
3           not determined under paragraph (2).

4           “(f) ADJUSTMENT FOR INFLATION.—

5           “(1) IN GENERAL.—In the case of any calendar  
6           year beginning after 2014, each of the dollar  
7           amounts under subsections (a), (b), (d)(1), and (e)  
8           shall be increased by such dollar amount multiplied  
9           by the cost-of-living adjustment determined under  
10          section 1(f)(3) determined by substituting ‘calendar  
11          year 2011’ for ‘calendar year 1992’ in subparagraph  
12          (B) thereof.

13          “(2) ADDITIONAL ADJUSTMENTS MADE ONLY  
14          EVERY FIFTH YEAR.—Notwithstanding paragraph  
15          (1), in the case of any calendar year beginning after  
16          2015 (other than every fifth calendar after 2015),  
17          each increase determined under paragraph (1) shall  
18          not exceed the amount of such increase determined  
19          for the preceding year.

20          “(3) ROUNDING.—If any amount adjusted  
21          under paragraph (1)—

22                 “(A) is not less than \$75,000 and is not  
23                 a multiple of \$500, such amount shall be  
24                 rounded to the next lowest multiple of \$500,  
25                 and

1           “(B) is not described in subparagraph (A)  
2           and is not a multiple of \$10, such amount shall  
3           be rounded to the next lowest multiple of \$10.”.

4           (h) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply with respect to information returns  
6 required to be filed on or after January 1, 2011.

7 **SEC. 214. TREATMENT OF SECURITIES OF A CONTROLLED**  
8                                   **CORPORATION EXCHANGED FOR ASSETS IN**  
9                                   **CERTAIN REORGANIZATIONS.**

10          (a) IN GENERAL.—Section 361 is amended by adding  
11 at the end the following new subsection:

12          “(d) SPECIAL RULES FOR TRANSACTIONS INVOLVING  
13 SECTION 355 DISTRIBUTIONS.—In the case of a reorga-  
14 nization described in section 368(a)(1)(D) with respect to  
15 which stock or securities of the corporation to which the  
16 assets are transferred are distributed in a transaction  
17 which qualifies under section 355—

18               “(1) this section shall be applied by substituting  
19               ‘stock other than nonqualified preferred stock (as  
20               defined in section 351(g)(2))’ for ‘stock or securities’  
21               in subsections (a) and (b)(1), and

22               “(2) the first sentence of subsection (b)(3) shall  
23               apply only to the extent that the sum of the money  
24               and the fair market value of the other property  
25               transferred to such creditors does not exceed the ad-



1       justed bases of such assets transferred (reduced by  
2       the amount of the liabilities assumed (within the  
3       meaning of section 357(c))).”.

4       (b) CONFORMING AMENDMENT.—Paragraph (3) of  
5       section 361(b) is amended by striking the last sentence.

6       (c) EFFECTIVE DATE.—

7           (1) IN GENERAL.—Except as provided in para-  
8       graph (2), the amendments made by this section  
9       shall apply to exchanges after the date of the enact-  
10      ment of this Act.

11          (2) TRANSITION RULE.—The amendments  
12      made by this section shall not apply to any exchange  
13      pursuant to a transaction which is—

14           (A) made pursuant to an agreement which  
15      was binding on March 15, 2010, and at all  
16      times thereafter;

17           (B) described in a ruling request submitted  
18      to the Internal Revenue Service on or before  
19      such date; or

20           (C) described on or before such date in a  
21      public announcement or in a filing with the Se-  
22      curities and Exchange Commission.

1 **TITLE III—PAYGO COMPLIANCE**

2 **SEC. 301. PAYGO COMPLIANCE.**

3       The budgetary effects of this Act, for the purpose of  
4 complying with the Statutory Pay-As-You-Go-Act of 2010,  
5 shall be determined by reference to the latest statement  
6 titled “Budgetary Effects of PAYGO Legislation” for this  
7 Act, submitted for printing in the Congressional Record  
8 by the Chairman of the House Budget Committee, pro-  
9 vided that such statement has been submitted prior to the  
10 vote on passage.