

112TH CONGRESS
1ST SESSION

H. R. 64

To amend the Internal Revenue Code of 1986 to prevent corporations from exploiting tax treaties to evade taxation of United States income.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 2011

Mr. DOGGETT introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to prevent corporations from exploiting tax treaties to evade taxation of United States income.

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. LIMITATION ON TREATY BENEFITS FOR CER-**
4 **TAIN DEDUCTIBLE PAYMENTS.**

5 (a) IN GENERAL.—Section 894 of the Internal Rev-
6 enue Code of 1986 (relating to income affected by treaty)
7 is amended by adding at the end the following new sub-
8 section:

9 “(d) LIMITATION ON TREATY BENEFITS FOR CER-
10 TAIN DEDUCTIBLE PAYMENTS.—

1 “(1) IN GENERAL.—In the case of any deduct-
2 ible related-party payment, any withholding tax im-
3 posed under chapter 3 (and any tax imposed under
4 subpart A or B of this part) with respect to such
5 payment may not be reduced under any treaty of the
6 United States unless any such withholding tax would
7 be reduced under a treaty of the United States if
8 such payment were made directly to the foreign par-
9 ent corporation.

10 “(2) DEDUCTIBLE RELATED-PARTY PAY-
11 MENT.—For purposes of this subsection, the term
12 ‘deductible related-party payment’ means any pay-
13 ment made, directly or indirectly, by any person to
14 any other person if the payment is allowable as a de-
15 duction under this chapter and both persons are
16 members of the same foreign controlled group of en-
17 tities.

18 “(3) FOREIGN CONTROLLED GROUP OF ENTI-
19 TIES.—For purposes of this subsection—

20 “(A) IN GENERAL.—The term ‘foreign
21 controlled group of entities’ means a controlled
22 group of entities the common parent of which
23 is a foreign corporation.

24 “(B) CONTROLLED GROUP OF ENTITIES.—
25 The term ‘controlled group of entities’ means a

1 controlled group of corporations as defined in
2 section 1563(a)(1), except that—

3 “(i) ‘more than 50 percent’ shall be
4 substituted for ‘at least 80 percent’ each
5 place it appears therein, and

6 “(ii) the determination shall be made
7 without regard to subsections (a)(4) and
8 (b)(2) of section 1563.

9 A partnership or any other entity (other than a
10 corporation) shall be treated as a member of a
11 controlled group of entities if such entity is con-
12 trolled (within the meaning of section
13 954(d)(3)) by members of such group (includ-
14 ing any entity treated as a member of such
15 group by reason of this sentence).

16 “(4) FOREIGN PARENT CORPORATION.—For
17 purposes of this subsection, the term ‘foreign parent
18 corporation’ means, with respect to any deductible
19 related-party payment, the common parent of the
20 foreign controlled group of entities referred to in
21 paragraph (3)(A).

22 “(5) REGULATIONS.—The Secretary may pre-
23 scribe such regulations or other guidance as are nec-
24 essary or appropriate to carry out the purposes of

1 this subsection, including regulations or other guid-
2 ance which provide for—

3 “(A) the treatment of two or more persons
4 as members of a foreign controlled group of en-
5 tities if such persons would be the common par-
6 ent of such group if treated as one corporation,
7 and

8 “(B) the treatment of any member of a
9 foreign controlled group of entities as the com-
10 mon parent of such group if such treatment is
11 appropriate taking into account the economic
12 relationships among such entities.”.

13 (b) EFFECTIVE DATE.—The amendment made by
14 this section shall apply to payments made after the date
15 of the enactment of this Act.

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