

115TH CONGRESS  
2D SESSION

# S. 3674

To amend the Internal Revenue Code of 1986 to modify the global intangible low-taxed income by repealing the tax-free deemed return on investments and determining net CFC tested income on a per-country basis.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 28, 2018

Ms. KLOBUCHAR (for herself and Ms. DUCKWORTH) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to modify the global intangible low-taxed income by repealing the tax-free deemed return on investments and determining net CFC tested income on a per-country basis.

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. SHORT TITLE.**

4 This Act may be cited as the “Removing Incentives  
5 for Outsourcing Act”.

1 **SEC. 2. MODIFICATION OF TAX ON GLOBAL INTANGIBLE**  
2 **LOW-TAXED INCOME.**

3 (a) REPEAL OF TAX-FREE DEEMED RETURN ON IN-  
4 VESTMENTS.—

5 (1) IN GENERAL.—Section 951A(a) of the In-  
6 ternal Revenue Code of 1986 is amended by striking  
7 “global intangible low-taxed income” and inserting  
8 “net CFC tested income”.

9 (2) CONFORMING AMENDMENTS.—

10 (A) Section 951A of such Code is amended  
11 by striking subsections (b) and (d).

12 (B) Section 951A(e)(1) of such Code is  
13 amended by striking “subsections (b),  
14 (c)(1)(A), and” and inserting “subsections  
15 (c)(1)(A) and”.

16 (C) Section 951A(f) of such Code is  
17 amended to read as follows:

18 “(f) TREATMENT AS SUBPART F INCOME FOR CER-  
19 TAIN PURPOSES.—

20 “(1) IN GENERAL.—Except as provided in para-  
21 graph (2), any net CFC tested income included in  
22 gross income under subsection (a) shall be treated in  
23 the same manner as an amount included under sec-  
24 tion 951(a)(1)(A) for purposes of applying sections  
25 168(h)(2)(B), 535(b)(10), 851(b), 904(h)(1), 959,  
26 961, 962, 993(a)(1)(E), 996(f)(1), 1248(b)(1),

1 1248(d)(1), 6501(e)(1)(C), 6654(d)(2)(D), and  
2 6655(e)(4).

3 “(2) EXCEPTION.—The Secretary shall provide  
4 rules for the application of paragraph (1) to other  
5 provisions of this title in any case in which the de-  
6 termination of subpart F income is required to be  
7 made at the level of the controlled foreign corpora-  
8 tion.”.

9 (D) Section 960(d)(2)(A) of such Code is  
10 amended by striking “global intangible low-  
11 taxed income (as defined in section 951A(b))”  
12 and inserting “net CFC tested income (as de-  
13 fined in section 951A(c))”.

14 (b) DETERMINATION OF NET CFC TESTED INCOME  
15 ON COUNTRY-BY-COUNTRY BASIS.—Section 951A of the  
16 Internal Revenue Code of 1986 is amended by adding at  
17 the end the following:

18 “(g) DETERMINATION MADE ON COUNTRY-BY-COUN-  
19 TRY BASIS.—

20 “(1) IN GENERAL.—This section shall be ap-  
21 plied with respect to a United States shareholder of  
22 the controlled foreign corporation separately with re-  
23 spect to each foreign country in which the controlled  
24 foreign corporation conducts any trade or business.

25 “(2) SPECIAL RULES.—

1           “(A) IN GENERAL.—For purposes of mak-  
2           ing country-by-country determinations under  
3           this section and sections 904 and 960 with re-  
4           spect to net CFC tested income for a taxable  
5           year pursuant to paragraph (1)—

6                   “(i) taxes paid or accrued to a foreign  
7                   country by the controlled foreign corpora-  
8                   tion shall be assigned to that country, and

9                   “(ii) earnings to which such taxes re-  
10                  late shall be treated as income assigned to  
11                  the country to which those tax payments  
12                  are made.

13           “(B) EARNINGS ASSIGNED TO TWO OR  
14           MORE COUNTRIES.—If the same earnings are  
15           assigned to two or more countries under sub-  
16           paragraph (A), for purposes of paragraph (1)  
17           such earnings and the taxes related thereto  
18           shall be treated as assigned to the country with  
19           the highest statutory corporate tax rate.

20           “(3) EARNINGS NOT SUBJECT TO TAX.—If  
21           earnings are not subject to tax by any country, then  
22           with respect to those earnings paragraph (1) shall  
23           not apply.

24           “(4) REGULATIONS.—The Secretary shall pre-  
25           scribe such regulations as may be necessary or ap-

1       appropriate to carry out this subsection, including the  
2       time period in which foreign earnings and the associ-  
3       ated foreign taxes are assigned to a country.”.

4       (c) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply with respect to taxable years of  
6 controlled foreign corporations beginning after December  
7 31, 2018, and to taxable years of United States share-  
8 holders in which or with which such taxable years of for-  
9 eign corporations end.

10 **SEC. 3. STUDY AND REPORT ON RESTRUCTURING INTER-**  
11 **NATIONAL TAX LAWS.**

12       (a) STUDY.—The Chief of Staff of the Joint Com-  
13 mittee on Taxation shall study options for the reform of  
14 laws related to the taxation of income from international  
15 sources, including the provisions of sections 59A, 250, and  
16 951A of the Internal Revenue Code of 1986. Such study  
17 include an evaluation of each option considered with re-  
18 spect to—

19               (1) the extent to which the option increases or  
20               decreases opportunities for tax avoidance; and

21               (2) the extent to which the option increases or  
22               decreases incentives for domestic businesses to shift  
23               jobs and operations to other countries.

24       (b) REPORT.—Not later than 90 days after the date  
25 of the enactment of this Act, the Chief of Staff on the

1 Joint Committee on Taxation shall submit to Congress a  
2 report on the results of the study conducted under sub-  
3 section (a).

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