

115TH CONGRESS
2D SESSION

S. 3804

To reinstate the taxation of foreign oil related income, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 21, 2018

Ms. DUCKWORTH introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To reinstate the taxation of foreign oil related income, 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,*

3 **SECTION 1. TREATMENT OF FOREIGN OIL RELATED IN-**
4 **COME AS SUBPART F INCOME.**

5 (a) IN GENERAL.—Section 954(a) of the Internal
6 Revenue Code of 1986 is amended by striking “and” at
7 the end of paragraph (2), by striking the period at the
8 end of paragraph (3) and inserting “, and”, and by adding
9 at the end the following new paragraph:

10 “(4) the foreign base company oil related in-
11 come for the taxable year (determined under sub-

1 section (g) and reduced as provided in subsection
2 (b)(5)).”.

3 (b) FOREIGN BASE COMPANY OIL RELATED IN-
4 COME.—Section 954 of the Internal Revenue Code of 1986
5 is amended by inserting after subsection (e) the following
6 new subsection:

7 “(g) FOREIGN BASE COMPANY OIL RELATED IN-
8 COME.—For purposes of this section—

9 “(1) IN GENERAL.—Except as otherwise pro-
10 vided in this subsection, the term ‘foreign base com-
11 pany oil related income’ means foreign oil related in-
12 come (within the meaning of paragraphs (2) and (3)
13 of section 907(e)) other than income derived from a
14 source within a foreign country in connection with—

15 “(A) oil or gas which was extracted from
16 an oil or gas well located in such foreign coun-
17 try, or

18 “(B) oil, gas, or a primary product of oil
19 or gas which is sold by the foreign corporation
20 or a related person for use or consumption
21 within such country or is loaded in such coun-
22 try on a vessel or aircraft as fuel for such vessel
23 or aircraft.

1 Such term shall not include any foreign personal
2 holding company income (as defined in subsection
3 (c)).

4 “(2) PARAGRAPH (1) APPLIES ONLY WHERE
5 CORPORATION HAS PRODUCED 1,000 BARRELS PER
6 DAY OR MORE.—

7 “(A) IN GENERAL.—The term ‘foreign
8 base company oil related income’ shall not in-
9 clude any income of a foreign corporation if
10 such corporation is not a large oil producer for
11 the taxable year.

12 “(B) LARGE OIL PRODUCER.—For pur-
13 poses of subparagraph (A), the term ‘large oil
14 producer’ means any corporation if, for the tax-
15 able year or for the preceding taxable year, the
16 average daily production of foreign crude oil
17 and natural gas of the related group which in-
18 cludes such corporation equaled or exceeded
19 1,000 barrels.

20 “(C) RELATED GROUP.—The term ‘related
21 group’ means a group consisting of the foreign
22 corporation and any other person who is a re-
23 lated person with respect to such corporation.

24 “(D) AVERAGE DAILY PRODUCTION OF
25 FOREIGN CRUDE OIL AND NATURAL GAS.—For

1 purposes of this paragraph, the average daily
2 production of foreign crude oil or natural gas of
3 any related group for any taxable year (and the
4 conversion of cubic feet of natural gas into bar-
5 rels) shall be determined under rules similar to
6 the rules of section 613A except that only crude
7 oil or natural gas from a well located outside
8 the United States shall be taken into account.”.

9 (c) CONFORMING AMENDMENTS.—

10 (1) Section 952(c)(1)(B)(iii) of the Internal
11 Revenue Code of 1986 is amended by redesignating
12 subclauses (I) through (IV) as subclause (II)
13 through (V), respectively, and by inserting before
14 subclause (II) (as so redesignated) the following:

15 “(I) foreign base company oil re-
16 lated income,”.

17 (2) Section 954(b) of such Code is amended—

18 (A) by inserting at the end of paragraph
19 (4) the following: “The preceding sentence shall
20 not apply to foreign base company oil-related
21 income described in subsection (a)(4).”,

22 (B) by striking “and the foreign base com-
23 pany services income” in paragraph (5) and in-
24 serting “the foreign base company services in-

1 come, and the foreign base company oil related
2 income”, and

3 (C) by adding at the end the following new
4 paragraph:

5 “(6) FOREIGN BASE COMPANY OIL RELATED IN-
6 COME NOT TREATED AS ANOTHER KIND OF BASE
7 COMPANY INCOME.—Income of a corporation which
8 is foreign base company oil related income shall not
9 be considered foreign base company income of such
10 corporation under paragraph (2) or (3) of subsection
11 (a).”.

12 (d) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to taxable years of foreign corpora-
14 tions beginning after the date of the enactment of this
15 Act and to taxable years of United States shareholders
16 ending with or within which such taxable years of foreign
17 corporations end.

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