

107TH CONGRESS
1ST SESSION

H. R. 1755

To amend the Internal Revenue Code of 1986 to prevent the use of reinsurance with foreign persons to enable domestic nonlife insurance companies to evade United States income taxation.

IN THE HOUSE OF REPRESENTATIVES

MAY 8, 2001

Mrs. JOHNSON of Connecticut (for herself and Mr. NEAL of Massachusetts) 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 the use of reinsurance with foreign persons to enable domestic nonlife insurance companies to evade United States income taxation.

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 “Reinsurance Tax Eq-
5 uity Act of 2001”.

1 **SEC. 2. PREVENTION OF EVASION OF UNITED STATES IN-**
2 **COME TAX ON NONLIFE INSURANCE COMPA-**
3 **NIES THROUGH USE OF REINSURANCE WITH**
4 **FOREIGN PERSONS.**

5 (a) **IN GENERAL.**—Subparagraph (A) of section
6 832(b)(4) of the Internal Revenue Code of 1986 (relating
7 to insurance company taxable income) is amended to read
8 as follows:

9 “(A) From the amount of gross premiums
10 written on insurance contracts during the tax-
11 able year, deduct return premiums and pre-
12 miums paid for reinsurance (except as provided
13 in paragraph (9)).”

14 (b) **TREATMENT OF REINSURANCE WITH RELATED**
15 **REINSURERS.**—Subsection (b) of section 832 of such Code
16 is amended by adding at the end the following new para-
17 graph:

18 “(9) **DENIAL OF DEDUCTION UNDER PARA-**
19 **GRAPH (4) FOR REINSURANCE OF U.S. RISKS WITH**
20 **CERTAIN RELATED PERSONS.**—

21 “(A) **IN GENERAL.**—No deduction shall be
22 allowed under paragraph (4) for premiums paid
23 for the direct or indirect reinsurance of United
24 States risks with a related reinsurer.

25 “(B) **EXCEPTIONS.**—This paragraph shall
26 not apply to any premium to the extent that—

1 “(i) the income attributable to the re-
2 insurance to which such premium relates is
3 includible in the gross income of—

4 “(I) such reinsurer, or

5 “(II) 1 or more domestic cor-
6 porations or citizens or residents of
7 the United States, or

8 “(ii) the related insurer establishes to
9 the satisfaction of the Secretary that the
10 taxable income (determined in accordance
11 with this section 832) attributable to such
12 reinsurance is subject to an effective rate
13 of income tax imposed by a foreign country
14 at a rate greater than 20 percent of the
15 maximum rate of tax specified in section
16 11.

17 “(C) ELECTION BY REINSURER TO BE
18 TAXED ON INCOME.—Income of a related rein-
19 surer attributable to the reinsurance of United
20 States risks which is not otherwise includible in
21 gross income shall be treated as gross income
22 which is effectively connected with the conduct
23 of a trade or business in the United States if
24 such reinsurer—

1 “(i) elects to so treat such income,
2 and

3 “(ii) meets such requirements as the
4 Secretary shall prescribe to ensure that the
5 taxes imposed by this chapter on such in-
6 come are paid.

7 “(D) DEFINITIONS.—For purposes of this
8 paragraph—

9 “(i) UNITED STATES RISK.—The term
10 ‘United States risk’ means any risk related
11 to property in the United States, or liabil-
12 ity arising out of activity in, or in connec-
13 tion with the lives or health of residents of,
14 the United States.

15 “(ii) RELATED INSURER.—The term
16 ‘related insurer’ means any reinsurer
17 owned or controlled directly or indirectly
18 by the same interests (within the meaning
19 of section 482) as the person making the
20 premium payment.”

21 (c) TECHNICAL AMENDMENT.—Subparagraph (A) of
22 section 832(b)(5) of such Code is amended by inserting
23 after clause (iii) the following new clause:

24 “(iv) To the results so obtained, add
25 reinsurance recovered from a related rein-

1 surer to the extent a deduction for the pre-
2 mium paid for the reinsurance was dis-
3 allowed under paragraph (9).”

4 (d) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to premiums paid after the date
6 that the Committee on Ways and Means of the House of
7 Representatives votes to report this bill.

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