

116TH CONGRESS  
2D SESSION

# S. 3940

To amend the Internal Revenue Code of 1986 to exclude certain amounts from the tested income of controlled foreign corporations, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JUNE 11, 2020

Mr. WICKER 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 exclude certain amounts from the tested income of controlled foreign corporations, 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. SHORT TITLE.**

4 This Act may be cited as the “Territorial Economic  
5 Recovery Act”.

1 **SEC. 2. INCOME OF CERTAIN QUALIFIED POSSESSION COR-**  
 2 **PORATIONS EXCLUDED FROM TESTED IN-**  
 3 **COME.**

4 (a) IN GENERAL.—Section 951A of the Internal Rev-  
 5 enue Code of 1986 is amended—

6 (1) in subsection (c)(2)(A)(i), by striking “and”  
 7 at the end of subclause (IV), by striking “over” at  
 8 the end of subclause (V) and inserting “and”, and  
 9 by adding at the end the following new subclause:

10 “(VI) any income of a qualified  
 11 possession corporation that is effec-  
 12 tively connected with the active con-  
 13 duct of a trade or business within a  
 14 possession of the United States,  
 15 over”; and

16 (2) by adding at the end the following new sub-  
 17 sections:

18 “(g) POSSESSION OF THE UNITED STATES.—For  
 19 purposes of this section, the term ‘possession of the United  
 20 States’ means Puerto Rico, the Virgin Islands, and any  
 21 specified possession described in section 931(c).

22 “(h) QUALIFIED POSSESSION CORPORATION.—For  
 23 purposes of this section, the term ‘qualified possession cor-  
 24 poration’ means any controlled foreign corporation for any  
 25 taxable year, if, for the 3-year period (or the period during  
 26 which the controlled foreign corporation has been in exist-

1 ence, if shorter) ending in the taxable year preceding the  
2 taxable year in which the determination is made—

3           “(1) 80 percent or more of the gross income of  
4 such corporation was derived from sources within a  
5 possession of the United States, and

6           “(2) 75 percent or more of the gross income of  
7 such corporation was effectively connected with the  
8 active conduct of a trade or business within a pos-  
9 session of the United States.”.

10       (b) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply taxable years of foreign corpora-  
12 tions beginning after December 31, 2019, and to taxable  
13 years of United States shareholders in which or with which  
14 such taxable years of foreign corporations end.

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