

117TH CONGRESS
1ST SESSION

H. R. 2745

To provide incentives for businesses to keep jobs in America, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 21, 2021

Mr. POCAN (for himself, Mr. GARCÍA of Illinois, Mr. KHANNA, Mr. LYNCH, and Ms. NORTON) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Education and Labor, Oversight and Reform, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide incentives for businesses to keep jobs in America, 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 “End Outsourcing Act”.

5 **SEC. 2. OUTSOURCING STATEMENT IN WORKER ADJUST-** 6 **MENT AND RETRAINING NOTICE.**

7 (a) OUTSOURCING STATEMENT.—Section 3 of the
8 Worker Adjustment and Retraining Notification Act (29

1 U.S.C. 2102) is amended by adding at the end the fol-
2 lowing:

3 “(e) OUTSOURCING STATEMENT.—

4 “(1) IN GENERAL.—For purposes of subsection
5 (a), the employer shall include an outsourcing state-
6 ment in the notice described in that subsection. The
7 outsourcing statement shall specify whether part or
8 all of the positions held by affected employees cov-
9 ered by subsection (a) will be moved to a country
10 outside the United States, regardless of whether the
11 positions are moved within the business enterprise
12 involved or to another business enterprise. The em-
13 ployer shall make the determination of whether the
14 positions are being so moved in accordance with reg-
15 ulations issued by the Secretary. The employer shall
16 serve the notice as required under subsection (a) and
17 submit the notice to the Secretary of Labor.

18 “(2) LIST.—Not less often than annually, the
19 Secretary shall publish and make available on the
20 website of the Department of Labor, a list including
21 each employer who—

22 “(A) has included an outsourcing state-
23 ment in a notice under paragraph (1); or

24 “(B) has incurred liability under section 5,
25 in part or in whole, because the employer or-

(b) IMPLEMENTATION REPORT.—The Worker Adjustment and Retraining Notification Act is amended by inserting after section 10 (29 U.S.C. 2109) the following:

9 “(a) STUDY.—The Comptroller General of the United
10 States shall conduct a study of the implementation of sec-
11 tion 3(e) of the Worker Adjustment and Retraining Notifi-
12 cation Act (29 U.S.C. 2102(e)) by the Department of
13 Labor.

14 “(b) REPORT.—Not later than 3 years after the date
15 of enactment of this section, the Comptroller General shall
16 submit to the appropriate committees of Congress a report
17 containing the results of the study.”.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

1 **“SEC. 280I. OUTSOURCING EXPENSES.**

2 “(a) IN GENERAL.—No deduction otherwise allow-
3 able under this chapter shall be allowed for any specified
4 outsourcing expense.

5 “(b) SPECIFIED OUTSOURCING EXPENSE.—For pur-
6 poses of this section—

7 “(1) IN GENERAL.—The term ‘specified out-
8 sourcing expense’ means—

9 “(A) any eligible expense paid or incurred
10 by the taxpayer in connection with the elimi-
11 nation of any business unit of the taxpayer (or
12 of any member of any expanded affiliated group
13 in which the taxpayer is also a member) located
14 within the United States, and

15 “(B) any eligible expense paid or incurred
16 by the taxpayer in connection with the estab-
17 lishment of any business unit of the taxpayer
18 (or of any member of any expanded affiliated
19 group in which the taxpayer is also a member)
20 located outside the United States,

21 if such establishment constitutes the relocation of
22 the business unit so eliminated. For purposes of the
23 preceding sentence, a relocation shall not be treated
24 as failing to occur merely because such elimination
25 occurs in a different taxable year than such estab-
26 lishment.

1 “(2) ELIGIBLE EXPENSES.—The term ‘eligible
2 expenses’ means—

3 “(A) any amount for which a deduction is
4 allowed to the taxpayer under section 162, and

5 “(B) permit and license fees, lease broker-
6 age fees, equipment installation costs, and, to
7 the extent provided by the Secretary, other
8 similar expenses.

9 Such term does not include any compensation which
10 is paid or incurred in connection with severance
11 from employment and, to the extent provided by the
12 Secretary, any similar amount.

13 “(3) BUSINESS UNIT.—The term ‘business unit’
14 means—

15 “(A) any trade or business, and

16 “(B) any line of business, or functional
17 unit, which is part of any trade or business.

18 “(4) EXPANDED AFFILIATED GROUP.—The
19 term ‘expanded affiliated group’ means an affiliated
20 group as defined in section 1504(a), determined
21 without regard to section 1504(b)(3) and by sub-
22 stituting ‘more than 50 percent’ for ‘at least 80 per-
23 cent’ each place it appears in section 1504(a). A
24 partnership or any other entity (other than a cor-
25 poration) shall be treated as a member of an ex-

1 panded affiliated group if such entity is controlled
2 (within the meaning of section 954(d)(3)) by mem-
3 bers of such group (including any entity treated as
4 a member of such group by reason of this para-
5 graph).

6 “(5) OPERATING EXPENSES NOT TAKEN INTO
7 ACCOUNT.—Any amount paid or incurred in connec-
8 tion with the ongoing operation of a business unit
9 shall not be treated as an amount paid or incurred
10 in connection with the establishment or elimination
11 of such business unit.

12 “(c) SPECIAL RULES.—

13 “(1) APPLICATION TO DEDUCTIONS FOR DE-
14 PRECIATION AND AMORTIZATION.—In the case of
15 any portion of a specified outsourcing expense which
16 is not deductible in the taxable year in which paid
17 or incurred, such portion shall neither be chargeable
18 to capital account nor amortizable.

19 “(2) POSSESSIONS TREATED AS PART OF THE
20 UNITED STATES.—For purposes of this section, the
21 term ‘United States’ shall be treated as including
22 each possession of the United States (including the
23 Commonwealth of Puerto Rico and the Common-
24 wealth of the Northern Mariana Islands).

1 “(d) REGULATIONS.—The Secretary shall prescribe
 2 such regulations or other guidance as may be necessary
 3 or appropriate to carry out the purposes of this section,
 4 including regulations which provide (or create a rebuttable
 5 presumption) that certain establishments of business units
 6 outside the United States will be treated as relocations
 7 (based on timing or such other factors as the Secretary
 8 may provide) of business units eliminated within the
 9 United States.”.

10 (b) LIMITATION ON SUBPART F INCOME OF CON-
 11 TROLLED FOREIGN CORPORATIONS DETERMINED WITH-
 12 OUT REGARD TO SPECIFIED OUTSOURCING EXPENSES.—
 13 Subsection (c) of section 952 of such Code is amended
 14 by adding at the end the following new paragraph:

15 “(4) EARNINGS AND PROFITS DETERMINED
 16 WITHOUT REGARD TO SPECIFIED OUTSOURCING EX-
 17 PENSES.—For purposes of this subsection, earnings
 18 and profits of any controlled foreign corporation
 19 shall be determined without regard to any specified
 20 outsourcing expense (as defined in section
 21 280I(b)).”.

22 (c) CLERICAL AMENDMENT.—The table of sections
 23 for part IX of subchapter B of chapter 1 of such Code
 24 is amended by adding at the end the following new item:

“Sec. 280I. Outsourcing expenses.”.

1 (d) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to amounts paid or incurred after
 3 the date of the enactment of this Act.

4 **SEC. 4. DENIAL OF CERTAIN DEDUCTIONS AND ACCOUNT-**
 5 **ING METHODS FOR OUTSOURCING EMPLOY-**
 6 **ERS.**

7 (a) IN GENERAL.—Part IX of subchapter B of chap-
 8 ter 1 of the Internal Revenue Code of 1986, as amended
 9 by section 3, is amended by adding at the end the fol-
 10 lowing new section:

11 **“SEC. 280J. LIMITATIONS FOR OUTSOURCING EMPLOYERS.**

12 “(a) IN GENERAL.—During the disallowance period,
 13 an applicable taxpayer—

14 “(1) may not use the method provided in sec-
 15 tion 472(b) in inventorying goods,

16 “(2) may not use the lower of cost or market
 17 method of determining inventories for purposes of
 18 determining income, and

19 “(3) shall not be allowed any deduction under
 20 section 163 for interest paid or accrued on indebted-
 21 ness.

22 “(b) APPLICABLE TAXPAYER.—For purposes of sub-
 23 section (a), the term ‘applicable taxpayer’ means a tax-
 24 payer which—

1 “(1) during the taxable year, has served written
2 notice under subsection (a) of section 3 of the Work-
3 er Adjustment and Retraining Notification Act
4 which includes an outsourcing statement described
5 in subsection (e) of such section, and

6 “(2) the cumulative employment loss (excluding
7 any part-time employees) for positions at facilities
8 owned by such taxpayer which will be moved to a
9 country outside of the United States, as determined
10 pursuant to any outsourcing statements served by
11 such taxpayer during such taxable year, exceeds 50
12 employees.

13 “(c) DISALLOWANCE PERIOD.—For purposes of sub-
14 section (a), the disallowance period is the period of 3 tax-
15 able years after the taxable year in which the statements
16 described in subsection (b)(2) are required to be served.

17 “(d) EXPANDED AFFILIATED GROUP TREATED AS
18 SINGLE TAXPAYER.—For purposes of this section, the
19 members of an expanded affiliated group (as defined in
20 section 280I(b)(4)) shall be treated as a single taxpayer.

21 “(e) REGULATIONS.—The Secretary shall prescribe
22 such regulations or other guidance as may be necessary
23 or appropriate to carry out the purposes of this section.”.

24 (b) CLERICAL AMENDMENT.—The table of sections
25 for part IX of subchapter B of chapter 1 of the Internal

1 Revenue Code of 1986, as amended by section 3, is
 2 amended by adding at the end the following new item:

“Sec. 280J. Limitations for outsourcing employers.”.

3 (c) EFFECTIVE DATE.—The amendments made by
 4 this section shall apply to taxable years beginning after
 5 the date of the enactment of this Act.

6 **SEC. 5. AUTHORITY FOR FEDERAL AGENCIES TO TAKE THE**
 7 **OUTSOURCING OF JOBS FROM THE UNITED**
 8 **STATES INTO ACCOUNT FOR GRANTS, LOANS,**
 9 **AND LOAN GUARANTEES.**

10 (a) DISCLOSURE OF OUTSOURCING OF JOBS.—

11 (1) IN GENERAL.—The head of any Federal
 12 agency, or their delegate, shall require any entity
 13 that submits a request for an applicable agency ac-
 14 tion to disclose in the request if such entity, or any
 15 subsidiary of such entity, owns a facility for which
 16 there is an outsourcing event during the 3-year pe-
 17 riod ending on the date of the submission of the re-
 18 quest.

19 (2) OUTSOURCING EVENT.—For purposes of
 20 paragraph (1), the term “outsourcing event” means
 21 a plant closing or mass layoff (as described in sec-
 22 tion 2(a) of the Worker Adjustment and Retraining
 23 Notification Act) in which the employment loss (ex-
 24 cluding any part-time employees) for positions which
 25 will be moved to a country outside of the United

1 States, as determined pursuant to the outsourcing
2 statement (as described in paragraph (1) of such
3 section 3(e) of such Act), exceeds 50 employees.

4 (b) CONSIDERATION AUTHORITY.—

5 (1) IN GENERAL.—In considering a request by
6 an entity for an applicable agency action, the head
7 of any Federal agency, as well as any officers, em-
8 ployees, and contractors of such Agency, shall take
9 into account any disclosure made pursuant to sub-
10 section (a) for purposes of such request.

11 (2) NEGATIVE PREFERENCE.—The head of any
12 Federal agency shall establish a negative preference
13 of not less than 10 percent of the scoring evaluation
14 for any request for an applicable agency action by
15 an entity that makes a disclosure pursuant to sub-
16 section (a).

17 (c) SENSE OF CONGRESS.—It is the sense of Con-
18 gress that Federal agencies should, in considering requests
19 by entities for any applicable agency action, exclude enti-
20 ties making a disclosure of an outsourcing event pursuant
21 to subsection (a) on the grounds that the actions described
22 in the disclosures are against the public interests of the
23 United States.

1 (d) ANNUAL REPORT.—The head of each Federal
 2 agency shall submit to Congress each year a report on the
 3 following:

4 (1) The number of entities making a disclosure
 5 of an outsourcing event pursuant to subsection (a)
 6 in regards to a request for applicable agency action
 7 during the preceding year.

8 (2) The number of requests for applicable agen-
 9 cy action which were granted by the agency during
 10 the preceding year in which such disclosures were
 11 taken into account.

12 (e) APPLICABLE AGENCY ACTION.—For purposes of
 13 this section, the term “applicable agency action” means
 14 any grant, loan, or loan guarantee awarded or issued by
 15 a Federal agency.

16 **SEC. 6. RECAPTURE OF CREDITS FOR OUTSOURCING EM-**
 17 **LOYERS.**

18 (a) IN GENERAL.—Part IV of subchapter A of chap-
 19 ter 1 of the Internal Revenue Code of 1986 is amended
 20 by adding at the end the following new subpart:

21 **“Subpart H—Recapture of Credits for Outsourcing**
 22 **Employers**

“Sec. 54. Recapture of credits for outsourcing employers.

1 **“SEC. 54. RECAPTURE OF CREDITS FOR OUTSOURCING EM-**
2 **PLOYERS.**

3 “(a) IN GENERAL.—Pursuant to regulations pre-
4 scribed by the Secretary, in the case of a taxpayer which
5 owns a facility for which there is an outsourcing event dur-
6 ing the taxable year, the tax under this chapter for such
7 taxable year shall be increased by the amount equal to
8 the sum of—

9 “(1) any credits allowed under this chapter re-
10 lating to expenses for design, construction, oper-
11 ation, or maintenance of such facility during the 5
12 taxable years preceding such taxable year, and

13 “(2) any grants provided by the Secretary in
14 lieu of credits described in paragraph (1) during the
15 5 taxable years preceding such taxable year.

16 “(b) OUTSOURCING EVENT.—For purposes of sub-
17 section (a), the term ‘outsourcing event’ means a plant
18 closing or mass layoff (as described in section 2(a) of the
19 Worker Adjustment and Retraining Notification Act) in
20 which the employment loss (excluding any part-time em-
21 ployees) for positions which will be moved to a country
22 outside of the United States, as determined pursuant to
23 the outsourcing statement (as described in paragraph (1)
24 of such section 3(e) of such Act) served by the taxpayer
25 during the taxable year, exceeds 50 employees.

1 “(c) EXPANDED AFFILIATED GROUP TREATED AS
 2 SINGLE TAXPAYER.—For purposes of this section, the
 3 members of an expanded affiliated group (as defined in
 4 section 280I(b)(4)) shall be treated as a single taxpayer.”.

5 (b) CLERICAL AMENDMENT.—The table of subparts
 6 for part IV of subchapter A of chapter 1 of such Code
 7 is amended by adding at the end the following new item:

“SUBPART H—RECAPTURE OF CREDITS FOR OUTSOURCING EMPLOYERS”.

8 (c) EFFECTIVE DATE.—The amendments made by
 9 this section shall apply to taxable years beginning after
 10 the date of the enactment of this Act.

11 **SEC. 7. CREDIT FOR INSOURCING EXPENSES.**

12 (a) IN GENERAL.—Subpart D of part IV of sub-
 13 chapter A of chapter 1 of the Internal Revenue Code of
 14 1986 is amended by adding at the end the following new
 15 section:

16 **“SEC. 45U. CREDIT FOR INSOURCING EXPENSES.**

17 “(a) IN GENERAL.—For purposes of section 38, the
 18 insourcing expenses credit for any taxable year is an
 19 amount equal to 20 percent of the eligible insourcing ex-
 20 penses of the taxpayer which are taken into account in
 21 such taxable year under subsection (d).

22 “(b) ELIGIBLE INSOURCING EXPENSES.—For pur-
 23 poses of this section—

24 “(1) IN GENERAL.—The term ‘eligible insoure-
 25 ing expenses’ means—

1 “(A) eligible expenses paid or incurred by
2 the taxpayer in connection with the elimination
3 of any business unit of the taxpayer (or of any
4 member of any expanded affiliated group in
5 which the taxpayer is also a member) located
6 outside the United States, and

7 “(B) eligible expenses paid or incurred by
8 the taxpayer in connection with the establish-
9 ment of any business unit of the taxpayer (or
10 of any member of any expanded affiliated group
11 in which the taxpayer is also a member) located
12 within—

13 “(i) a HUBZone (as defined in sec-
14 tion 3(p)(2) of the Small Business Act (15
15 U.S.C. 632(p)(2))), or

16 “(ii) a low-income community (as de-
17 scribed in section 45D(e)),

18 if such establishment constitutes the relocation
19 of the business unit so eliminated. For purposes
20 of the preceding sentence, a relocation shall not
21 be treated as failing to occur merely because
22 such elimination occurs in a different taxable
23 year than such establishment.

24 “(2) ELIGIBLE EXPENSES.—The term ‘eligible
25 expenses’ means—

1 “(A) any amount for which a deduction is
2 allowed to the taxpayer under section 162, and

3 “(B) permit and license fees, lease broker-
4 age fees, equipment installation costs, and, to
5 the extent provided by the Secretary, other
6 similar expenses.

7 Such term does not include any compensation which
8 is paid or incurred in connection with severance
9 from employment and, to the extent provided by the
10 Secretary, any similar amount.

11 “(3) BUSINESS UNIT.—The term ‘business unit’
12 means—

13 “(A) any trade or business, and

14 “(B) any line of business, or functional
15 unit, which is part of any trade or business.

16 “(4) EXPANDED AFFILIATED GROUP.—The
17 term ‘expanded affiliated group’ means an affiliated
18 group as defined in section 1504(a), determined
19 without regard to section 1504(b)(3) and by sub-
20 stituting ‘more than 50 percent’ for ‘at least 80 per-
21 cent’ each place it appears in section 1504(a). A
22 partnership or any other entity (other than a cor-
23 poration) shall be treated as a member of an ex-
24 panded affiliated group if such entity is controlled
25 (within the meaning of section 954(d)(3)) by mem-

1 bers of such group (including any entity treated as
2 a member of such group by reason of this para-
3 graph).

4 “(5) EXPENSES MUST BE PURSUANT TO
5 INSOURCING PLAN.—Amounts shall be taken into ac-
6 count under paragraph (1) only to the extent that
7 such amounts are paid or incurred pursuant to a
8 written plan to carry out the relocation described in
9 paragraph (1).

10 “(6) OPERATING EXPENSES NOT TAKEN INTO
11 ACCOUNT.—Any amount paid or incurred in connec-
12 tion with the on-going operation of a business unit
13 shall not be treated as an amount paid or incurred
14 in connection with the establishment or elimination
15 of such business unit.

16 “(c) INCREASED DOMESTIC EMPLOYMENT REQUIRE-
17 MENT.—No credit shall be allowed under this section un-
18 less the number of full-time equivalent employees of the
19 taxpayer for the taxable year for which the credit is
20 claimed exceeds the number of full-time equivalent em-
21 ployees of the taxpayer for the last taxable year ending
22 before the first taxable year in which such eligible
23 insourcing expenses were paid or incurred. For purposes
24 of this subsection, full-time equivalent employees has the
25 meaning given such term under section 45R(d) (and the

1 applicable rules of section 45R(e)). All employers treated
2 as a single employer under subsection (b), (c), (m), or (o)
3 of section 414 shall be treated as a single employer for
4 purposes of this subsection.

5 “(d) CREDIT ALLOWED UPON COMPLETION OF
6 INSOURCING PLAN.—

7 “(1) IN GENERAL.—Except as provided in para-
8 graph (2), eligible insourcing expenses shall be taken
9 into account under subsection (a) in the taxable year
10 during which the plan described in subsection (b)(5)
11 has been completed and all eligible insourcing ex-
12 penses pursuant to such plan have been paid or in-
13 curred.

14 “(2) ELECTION TO APPLY EMPLOYMENT TEST
15 AND CLAIM CREDIT IN FIRST FULL TAXABLE YEAR
16 AFTER COMPLETION OF PLAN.—If the taxpayer
17 elects the application of this paragraph, eligible
18 insourcing expenses shall be taken into account
19 under subsection (a) in the first taxable year after
20 the taxable year described in paragraph (1).

21 “(e) POSSESSIONS TREATED AS PART OF THE
22 UNITED STATES.—For purposes of this section, the term
23 ‘United States’ shall be treated as including each posses-
24 sion of the United States (including the Commonwealth

1 of Puerto Rico and the Commonwealth of the Northern
2 Mariana Islands).

3 “(f) REGULATIONS.—The Secretary shall prescribe
4 such regulations or other guidance as may be necessary
5 or appropriate to carry out the purposes of this section.”.

6 (b) CREDIT TO BE PART OF GENERAL BUSINESS
7 CREDIT.—Subsection (b) of section 38 of such Code is
8 amended by striking “plus” at the end of paragraph (32),
9 by striking the period at the end of paragraph (33) and
10 inserting “, plus”, and by adding at the end the following
11 new paragraph:

12 “(34) the insourcing expenses credit determined
13 under section 45U(a).”.

14 (c) CLERICAL AMENDMENT.—The table of sections
15 for subpart D of part IV of subchapter A of chapter 1
16 of such Code is amended by adding at the end the fol-
17 lowing new item:

“Sec. 45U. Credit for insourcing expenses.”.

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to amounts paid or incurred after
20 the date of the enactment of this Act.

21 (e) APPLICATION TO UNITED STATES POSSES-
22 SIONS.—

23 (1) PAYMENTS TO POSSESSIONS.—

24 (A) MIRROR CODE POSSESSIONS.—The
25 Secretary of the Treasury shall make periodic

1 payments to each possession of the United
2 States with a mirror code tax system in an
3 amount equal to the loss to that possession by
4 reason of section 45U of the Internal Revenue
5 Code of 1986. Such amount shall be determined
6 by the Secretary of the Treasury based on in-
7 formation provided by the government of the re-
8 spective possession.

9 (B) OTHER POSSESSIONS.—The Secretary
10 of the Treasury shall make annual payments to
11 each possession of the United States which does
12 not have a mirror code tax system in an
13 amount estimated by the Secretary of the
14 Treasury as being equal to the aggregate bene-
15 fits that would have been provided to residents
16 of such possession by reason of section 45U of
17 such Code if a mirror code tax system had been
18 in effect in such possession. The preceding sen-
19 tence shall not apply with respect to any posses-
20 sion of the United States unless such possession
21 has a plan, which has been approved by the
22 Secretary of the Treasury, under which such
23 possession will promptly distribute such pay-
24 ment to the residents of such possession.

1 (2) COORDINATION WITH CREDIT ALLOWED
2 AGAINST UNITED STATES INCOME TAXES.—No cred-
3 it shall be allowed against United States income
4 taxes under section 45U of such Code to any per-
5 son—

6 (A) to whom a credit is allowed against
7 taxes imposed by the possession by reason of
8 such section, or

9 (B) who is eligible for a payment under a
10 plan described in paragraph (1)(B).

11 (3) DEFINITIONS AND SPECIAL RULES.—

12 (A) POSSESSIONS OF THE UNITED
13 STATES.—For purposes of this section, the
14 term “possession of the United States” includes
15 the Commonwealth of Puerto Rico and the
16 Commonwealth of the Northern Mariana Is-
17 lands.

18 (B) MIRROR CODE TAX SYSTEM.—For pur-
19 poses of this section, the term “mirror code tax
20 system” means, with respect to any possession
21 of the United States, the income tax system of
22 such possession if the income tax liability of the
23 residents of such possession under such system
24 is determined by reference to the income tax

1 laws of the United States as if such possession
2 were the United States.

3 (C) TREATMENT OF PAYMENTS.—For pur-
4 poses of section 1324(b)(2) of title 31, United
5 States Code, the payments under this section
6 shall be treated in the same manner as a refund
7 due from sections referred to in such section
8 1324(b)(2).

9 **SEC. 8. AUTHORITY FOR FEDERAL CONTRACTING OFFI-**
10 **CERS TO TAKE THE OUTSOURCING OF JOBS**
11 **FROM THE UNITED STATES INTO ACCOUNT**
12 **IN AWARDING CONTRACTS.**

13 (a) DEPARTMENT OF DEFENSE AND RELATED
14 AGENCY CONTRACTS.—

15 (1) CONSIDERATION OF OUTSOURCING.—

16 (A) IN GENERAL.—Chapter 222 of title
17 10, United States Code, as added by section
18 1812(a) of the William M. (Mac) Thornberry
19 National Defense Authorization Act for Fiscal
20 Year 2021 (Public Law 116–283), is amended
21 by inserting after section 3227 the following
22 new section:

23 **“§ 3228. Contracts: consideration of outsourcing of**
24 **jobs**

25 **“(a) DISCLOSURE OF OUTSOURCING OF JOBS.—**

1 “(1) IN GENERAL.—The head of an agency
2 shall require a contractor that submits a bid or pro-
3 posal in response to a solicitation issued by the
4 agency to disclose in that bid or proposal if the con-
5 tractor, or a subsidiary of the contractor, owns a fa-
6 cility for which there is an outsourcing event during
7 the three-year period ending on the date of the sub-
8 mittal of the bid or proposal.

9 “(2) OUTSOURCING EVENT.—For purposes of
10 paragraph (1), the term ‘outsourcing event’ means a
11 plant closing or mass layoff (as described in section
12 2(a) of the Worker Adjustment and Retraining Noti-
13 fication Act) in which the employment loss (exclud-
14 ing any part-time employees) for positions which will
15 be moved to a country outside of the United States,
16 as determined pursuant to the outsourcing state-
17 ment (as described in paragraph (1) of such section
18 3(e) of such Act) served by the taxpayer during the
19 taxable year, exceeds 50 employees.

20 “(b) CONSIDERATION AUTHORIZED.—(1) Agency
21 contracting officers considering bids or proposals in re-
22 sponse to a solicitation issued by the agency shall take
23 into account any disclosure made pursuant to subsection
24 (a) in such bids and proposals.

1 “(2) The head of an agency shall establish a negative
2 preference of no less than 10 percent of the cost of a con-
3 tract for purposes of evaluating a bid or proposal of a con-
4 tractor that makes a disclosure pursuant to subsection (a).

5 “(c) SENSE OF CONGRESS.—It is the sense of Con-
6 gress that agency contracting officers should, using sec-
7 tion 3203(a) of this title, exclude contractors making a
8 disclosure pursuant to subsection (a) in response to solici-
9 tations issued by the agency from the bidding process in
10 connection with such solicitations on the grounds that the
11 actions described in the disclosures are against the public
12 interests of the United States.

13 “(d) ANNUAL REPORT.—The head of each agency
14 shall submit to Congress each year a report on the fol-
15 lowing:

16 “(1) The number of solicitations made by the
17 agency during the preceding year for which disclo-
18 sures were made pursuant to subsection (a) in re-
19 sponsive bids or proposals.

20 “(2) The number of contracts awarded by the
21 agency during the preceding year in which such dis-
22 closures were taken into account in the contract
23 award.”.

24 (B) CLERICAL AMENDMENT.—The table of
25 sections at the beginning of chapter 222 of such

1 title, as added by such section 1812(a), is
2 amended by inserting after the item relating to
3 section 3227 the following new item:

“3228. Contracts: consideration of outsourcing of jobs.”.

4 (2) EXCLUSION OF FIRMS FROM SOURCES.—
5 Section 3203(a) of such title, as added by section
6 1812(a) of the William M. (Mac) Thornberry Na-
7 tional Defense Authorization Act for Fiscal Year
8 2021 (Public Law 116–283), is amended—

9 (A) by redesignating subsection (c) as sub-
10 section (d);

11 (B) by inserting after subsection (b) the
12 following new subsection:

13 “(c) EXCLUSION OF SOURCES THAT OUTSOURCE
14 JOBS.—The head of an agency may provide for the pro-
15 curement of property and services covered by this chapter
16 using competitive procedures but excluding a source mak-
17 ing a disclosure pursuant to section 3228(a) of this title
18 in the bid or proposal in response to the solicitation issued
19 by the agency if the head of the agency determines that
20 the actions described by disclosure are against the public
21 interests of the United States and the source is to be ex-
22 cluded on those grounds. Any such determination shall
23 take into account the sense of Congress set forth in section
24 3228(c) of this title.”; and

1 (C) in subsection (d), as so redesignated,
 2 by striking “paragraphs (1) and (2)” and in-
 3 serting “subsections (a), (b), and (c)”.

4 (b) OTHER FEDERAL CONTRACTS.—

5 (1) CONSIDERATION OF OUTSOURCING.—Chap-
 6 ter 35 of title 41, United States Code, is amended
 7 by inserting after section 3303 the following new
 8 section:

9 **“§ 3303a. Bidders outsourcing jobs: disclosure of out-**
 10 **sourcing; consideration of outsourcing in**
 11 **award; exclusion from sources**

12 “(a) DISCLOSURE OF OUTSOURCING OF JOBS.—

13 “(1) IN GENERAL.—The head of an executive
 14 agency shall require a contractor that submits a bid
 15 or proposal in response to a solicitation issued by
 16 the executive agency to disclose in that bid or pro-
 17 posal if the contractor, or a subsidiary of the con-
 18 tractor, owns a facility for which there is an out-
 19 sourcing event during the three-year period ending
 20 on the date of the submittal of the bid or proposal.

21 “(2) OUTSOURCING EVENT.—For purposes of
 22 paragraph (1), the term ‘outsourcing event’ means a
 23 plant closing or mass layoff (as described in section
 24 2(a) of the Worker Adjustment and Retraining Noti-
 25 fication Act) in which the employment loss (exclud-

1 ing any part-time employees) for positions which will
2 be moved to a country outside of the United States,
3 as determined pursuant to the outsourcing state-
4 ment (as described in paragraph (1) of such section
5 3(e) of such Act) served by the taxpayer during the
6 taxable year, exceeds 50 employees.

7 “(b) CONSIDERATION AUTHORIZED.—(1) Con-
8 tracting officers of an executive agency considering bids
9 or proposals in response to a solicitation issued by the ex-
10 ecutive agency shall take into account any disclosure made
11 pursuant to subsection (a) in such bids and proposals.

12 “(2) The head of an executive agency shall establish
13 a negative preference of no less than 10 percent of the
14 cost of a contract for purposes of evaluating a bid or pro-
15 posal of a contractor that makes a disclosure pursuant to
16 subsection (a).

17 “(c) EXCLUSION FROM SOURCES.—

18 “(1) IN GENERAL.—The head of an executive
19 agency may provide for the procurement of property
20 and services using competitive procedures but ex-
21 cluding a source making a disclosure under sub-
22 section (a) in the bid or proposal in response to the
23 solicitation issued by the executive agency if the
24 head of the executive agency determines that the ac-
25 tions described by disclosure are against the public

1 interests of the United States and the source is to
2 be excluded on those grounds. Any such determina-
3 tion shall take into account the sense of Congress
4 set forth in paragraph (2).

5 “(2) SENSE OF CONGRESS.—It is the sense of
6 Congress that contracting officers of executive agen-
7 cies may use paragraph (1) to exclude contractors
8 making a disclosure pursuant to subsection (a) in re-
9 sponse to a solicitation issued by the executive agen-
10 cy from the bidding process in connection with the
11 solicitation on the grounds that the actions described
12 by the disclosure are against the public interests of
13 the United States.

14 “(d) ANNUAL REPORT.—The head of each executive
15 agency shall submit to Congress each year a report on the
16 following:

17 “(1) The number of solicitations made by the
18 executive agency during the preceding year for which
19 disclosures were made pursuant to subsection (a) in
20 responsive bids or proposals.

21 “(2) The number of contracts awarded to con-
22 tractors that disclosed having outsourced more than
23 50 jobs during the preceding three years.”.

24 (2) CLERICAL AMENDMENT.—The table of sec-
25 tions at the beginning of chapter 35 of such title is

1 amended by inserting after the item relating to sec-
2 tion 3303 the following new item:

“3303a. Bidders outsourcing jobs: disclosure of outsourcing; consideration of
outsourcing in award; exclusion from sources.”.

3 (3) CONFORMING AMENDMENT.—Section
4 3301(a) of such title is amended by inserting
5 “3303a(c),” after “3303,”.

6 (c) REGULATIONS.—

7 (1) IN GENERAL.—Not later than 180 days
8 after the date of the enactment of this Act, the Fed-
9 eral Acquisition Regulatory Council, in consultation
10 with the heads of relevant agencies, shall amend the
11 Federal Acquisition Regulation and the Defense
12 Federal Acquisition Regulation Supplement to carry
13 out the requirements of section 3303a of title 41,
14 United States Code, and section 3228 of title 10,
15 United States Code, as added by this section.

16 (2) DEFINITION OF OUTSOURCING.—For pur-
17 poses of defining outsourcing pursuant to paragraph
18 (1), the Federal Acquisition Regulatory Council may
19 utilize regulations prescribed by the Secretary of
20 Labor.

21 (d) RULE OF CONSTRUCTION.—This section, and the
22 amendments made by this section, shall be applied in a
23 manner consistent with United States obligations under
24 international agreements.

1 **SEC. 9. CURRENT YEAR INCLUSION OF NET CFC TESTED IN-**
 2 **COME.**

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) REPEAL OF REDUCED RATE OF TAX ON NET
15 CFC TESTED INCOME.—

16 (1) IN GENERAL.—Part VIII of subchapter B
17 of chapter 1 of such Code is amended by striking
18 section 250 (and by striking the item relating to
19 such section in the table of sections of such part).

20 (2) CONFORMING AMENDMENTS.—

21 (A) Section 59A(c)(4)(B)(i) of such Code
22 is amended by striking “section 172, 245A, or
23 250” and inserting “section 172 or 245A”.

24 (B) Section 172(d) of such Code is amend-
25 ed by striking paragraph (9).

1 (C) Section 246(b)(1) of such Code is
2 amended—

3 (i) by striking “subsection (a) and (b)
4 of section 245, and section 250” and in-
5 serting “and subsection (a) and (b) of sec-
6 tion 245”; and

7 (ii) by striking “subsection (a) and
8 (b) of section 245, and 250” and inserting
9 “and subsection (a) and (b) of section
10 245”.

11 (D) Section 469(i)(3)(F)(iii) is amended
12 by striking “222, and 250” and inserting “and
13 222”.

14 (c) NET CFC TESTED INCOME DETERMINED WITH-
15 OUT REGARD TO HIGH TAX FOREIGN INCOME.—Section
16 951A(c)(2)(A)(i) of such Code is amended by redesign-
17 ating subclauses (IV) and (V) as subclauses (V) and
18 (VI), respectively, and by inserting after subclause (III)
19 the following new subclause:

20 “(IV) any item of income subject
21 to an effective rate of income tax im-
22 posed by a foreign country greater
23 than the maximum rate of tax speci-
24 fied in section 11,”.

1 (d) REPEAL OF EXCLUSION OF FOREIGN OIL AND
 2 GAS EXTRACTION INCOME FROM THE DETERMINATION
 3 OF TESTED INCOME.—Section 951A(c)(2)(A)(i) of such
 4 Code, as amended by subsection (c) is amended—

5 (1) by adding “and” at the end of subclause
 6 (IV);

7 (2) by striking “and” at the end of subclause
 8 (V) and inserting “over”; and

9 (3) by striking subclause (VI).

10 (e) INCREASE IN DEEMED PAID CREDIT FOR TAXES
 11 PROPERLY ATTRIBUTABLE TO TESTED INCOME.—

12 (1) IN GENERAL.—Section 960(d) of such Code
 13 is amended by striking “80 percent of”.

14 (2) CONFORMING AMENDMENT.—Section 78 of
 15 such Code is amended by striking “(determined
 16 without regard to the phrase “80 percent of” in sub-
 17 section (d)(1) thereof)”.

18 (f) EFFECTIVE DATE.—

19 (1) IN GENERAL.—Except as otherwise pro-
 20 vided in this subsection, the amendments made by
 21 this section shall apply to taxable years of foreign
 22 corporations beginning after December 31, 2020,
 23 and to taxable years of United States shareholders
 24 in which or with which such taxable years of foreign
 25 corporations end.

1 (2) REPEAL OF REDUCED RATE OF TAX; IN-
2 CREASE IN DEEMED PAID CREDIT.—The amend-
3 ments made by subsection (b) and (e) shall apply to
4 taxable years beginning after December 31, 2020.

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