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(Original Signature of Member)

112TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To amend the Internal Revenue Code of 1986 to allow a temporary dividends received deduction for 2011 or 2012.

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IN THE HOUSE OF REPRESENTATIVES

Mr. BRADY of Texas (for himself, Mr. MATHESON, Mr. DOLD, and Mr. COOPER) introduced the following bill; which was referred to the Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To amend the Internal Revenue Code of 1986 to allow a temporary dividends received deduction for 2011 or 2012.

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 “Freedom to Invest Act  
5 of 2011”.

1 **SEC. 2. TEMPORARY DIVIDENDS RECEIVED DEDUCTION AL-**  
2 **LOWED FOR 2011 OR 2012.**

3 (a) ELECTION.—Subsection (f) of section 965 of the  
4 Internal Revenue Code of 1986 (relating to election) is  
5 amended to read as follows:

6 “(f) ELECTION.—The taxpayer may elect to apply  
7 this section to—

8 “(1) the taxpayer’s last taxable year which be-  
9 gins before the date of the enactment of this sub-  
10 section, or

11 “(2) the taxpayer’s first taxable year which be-  
12 gins during the 1-year period beginning on such  
13 date.

14 Such election may be made for a taxable year only if made  
15 on or before the due date (including extensions) for filing  
16 the return of tax for such taxable year.”.

17 (b) LIMITATION.—Paragraph (1) of section 965(b) of  
18 such Code is amended to read as follows:

19 “(1) IN GENERAL.—The amount of dividends  
20 taken into account under subsection (a) shall not ex-  
21 ceed the sum of the current and accumulated earn-  
22 ings and profits described in section 959(e)(3) for  
23 the year a deduction is claimed under subsection (a),  
24 without diminution by reason of any distributions  
25 made during the election year, for all controlled for-  
26 eign corporations of the United States shareholder.”.

1 (c) FAILURE TO MAINTAIN EMPLOYMENT LEV-  
2 ELS.—Paragraph (4) of section 965(b) of such Code (re-  
3 lating to limitations) is amended to read as follows:

4 “(4) REDUCTION IN BENEFITS FOR FAILURE  
5 TO MAINTAIN EMPLOYMENT LEVELS.—

6 “(A) IN GENERAL.—If, during the period  
7 consisting of the calendar month in which the  
8 taxpayer first receives a distribution described  
9 in subsection (a)(1) and the succeeding 23 cal-  
10 endar months, the taxpayer does not maintain  
11 an average employment level at least equal to  
12 the taxpayer’s prior average employment, an  
13 additional amount equal to \$25,000 multiplied  
14 by the number of employees by which the tax-  
15 payer’s average employment level during such  
16 period falls below the prior average employment  
17 (but not exceeding the aggregate amount al-  
18 lowed as a deduction pursuant to subsection  
19 (a)(1)) shall be taken into income by the tax-  
20 payer during the taxable year that includes the  
21 final day of such period.

22 “(B) AVERAGE EMPLOYMENT LEVEL.—  
23 For purposes of this paragraph, the taxpayer’s  
24 average employment level for a period shall be  
25 the average number of full-time United States

1 employees of the taxpayer, measured at the end  
2 of each month during the period.

3 “(C) PRIOR AVERAGE EMPLOYMENT.—For  
4 purposes of this paragraph, the taxpayer’s  
5 ‘prior average employment’ shall be the average  
6 number of full-time United States employees of  
7 the taxpayer during the period consisting of the  
8 24 calendar months immediately preceding the  
9 calendar month in which the taxpayer first re-  
10 ceives a distribution described in subsection  
11 (a)(1).

12 “(D) FULL-TIME UNITED STATES EM-  
13 PLOYEE.—For purposes of this paragraph—

14 “(i) IN GENERAL.—The term ‘full-  
15 time United States employee’ means an in-  
16 dividual who provides services in the  
17 United States as a full-time employee,  
18 based on the employer’s standards and  
19 practices; except that regardless of the em-  
20 ployer’s classification of the employee, an  
21 employee whose normal schedule is 40  
22 hours or more per week is considered a  
23 full-time employee.

1                   “(ii) EXCEPTION FOR CHANGES IN  
2 OWNERSHIP OF TRADES OR BUSINESSES.—  
3 Such term does not include—

4                   “(I) any individual who was an  
5 employee, on the date of acquisition,  
6 of any trade or business acquired by  
7 the taxpayer during the 24-month pe-  
8 riod referred to in subparagraph (A);  
9 and

10                   “(II) any individual who was an  
11 employee of any trade or business dis-  
12 posed of by the taxpayer during the  
13 24-month period referred to in sub-  
14 paragraph (A) or the 24-month period  
15 referred to in subparagraph (C).

16                   “(E) AGGREGATION RULES.—In deter-  
17 mining the taxpayer’s average employment level  
18 and prior average employment, all domestic  
19 members of a controlled group shall be treated  
20 as a single taxpayer.”.

21           (d) THRESHOLD PERIOD.—Section 965 of such Code  
22 is amended by striking “June 30, 2003” each place it oc-  
23 curs and inserting “June 30, 2010”.

24           (e) BASE PERIOD.—Paragraph (2) of subsection  
25 965(c) of such Code is amended by inserting at the end

1 of subparagraph (A) the following flush sentence: “For  
2 purposes of this paragraph, taxable years shall not include  
3 any year for which an election under section 965 was in  
4 effect.”.

5 (f) INDEBTEDNESS DETERMINATION DATE.—Sub-  
6 paragraph (B) of section 965(b)(3) of such Code is  
7 amended by striking “October 3, 2004” and inserting  
8 “January 19, 2011”.

9 (g) CONFORMING AMENDMENTS.—

10 (1) Subsection 965(c) of such Code, as amend-  
11 ed by subsection (e), is amended by striking para-  
12 graph (1) and redesignating paragraphs (2), (3),  
13 (4), and (5) as paragraphs (1), (2), (3), and (4), re-  
14 spectively.

15 (2) Paragraph 965(c)(4) of such Code, as re-  
16 designated by paragraph (1), is amended to read as  
17 follows:

18 “(4) CONTROLLED GROUPS.—All United States  
19 shareholders which are members of an affiliated  
20 group filing a consolidated return under section  
21 1501 shall be treated as one United States share-  
22 holder.”.

23 (h) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply to taxable years ending on or after  
25 the date of the enactment of this Act.