To amend the Internal Revenue Code of 1986 to repeal certain provisions applicable to foreign investment in United States real property.

IN THE HOUSE OF REPRESENTATIVES

Mr. Larson of Connecticut (for himself and Mr. Marchant) introduced the following bill; which was referred to the Committee on

A BILL

To amend the Internal Revenue Code of 1986 to repeal certain provisions applicable to foreign investment in United States real property.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Invest in America Act”.

[115H6726]
SEC. 2. REPEAL OF AMENDMENTS MADE BY THE FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT OF 1980 (‘‘FIRPTA’’).

(a) REPEAL OF CAPITAL GAINS TAX ON DISPOSITION OF INVESTMENTS IN UNITED STATES REAL PROPERTY BY FOREIGN CITIZENS.—

(1) IN GENERAL.—Subpart D of part II of subchapter N of chapter 1 of the Internal Revenue Code of 1986 is amended by striking section 897.

(2) CONFORMING AMENDMENTS.—

(A) Section 852(b)(3) of such Code is amended by striking subparagraph (E).

(B) Section 857(b)(3) of such Code is amended by striking subparagraph (E) and by redesignating subparagraph (F) as subparagraph (E).

(C) Section 861(a)(5) of such Code is amended to read as follows:

“(5) SALE OR EXCHANGE OF REAL PROPERTY.—Gains, profits, and income from the sale or exchange of interests in real property (as defined in section 856(c)(5)(C), except that such term shall include mineral, oil, and gas royalty interests) located in the United States.”.

(D) Section 862(a) of such Code is amended by adding “and” at the end of paragraph
(7), by striking paragraph (8), and by redesignating paragraph (9) as paragraph (8).

(E) Section 864(c)(8) of such Code is amended by striking subparagraph (C) and by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(F) Section 871(h)(4)(C)(v)(I) of such Code is amended by striking “other than property described in section 897(c)(1) or (g)”.

(G) Section 871(k)(2) of such Code is amended by striking subparagraph (E).

(H) Section 871(n) of such Code is amended by striking paragraph (7).

(I) Section 882(a) of such Code is amended by striking paragraph (3).

(J) Section 884(d)(2) of such Code is amended by striking subparagraph (C) and by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(K) Section 1125 of the Foreign Investment in Real Property Tax Act of 1980 is amended by striking subsections (c) and (d).

(3) CLERICAL AMENDMENT.—The table of sections for subpart D of part II of subchapter N of
chapter 1 of such Code is amended by striking the
item relating to section 897.

(b) REPEAL OF WITHHOLDING OF TAX ON DISPOSI-
TIONS OF UNITED STATES REAL PROPERTY INTER-
ESTS.—

(1) IN GENERAL.—Subchapter A of chapter 3
of such Code is amended by striking section 1445.

(2) CONFORMING AMENDMENTS.—

(A) Section 1446(f)(2)(A) of such Code is
amended by striking “is not a foreign person”
and inserting “is a United States person”.

(B) Section 1446(f)(2) of such Code is
amended—

(i) by striking “section 1445(d)” in
subparagraph (B)(i) and inserting “sub-
paragraph (C)”; and

(ii) by striking subparagraph (C) and
inserting the following new subparagraphs:

“(C) NOTICE OF FALSE AFFIDAVIT; FOR-
EIGN CORPORATIONS.—If the transferor fur-
ishes the transferee an affidavit described in
subparagraph (A), and

“(i) in the case of any transferor’s
agent—
“(I) such agent has actual knowledge that such affidavit is false, or

“(II) in the case of an affidavit described in subparagraph (A) furnished by a corporation, such corporation is a foreign corporation, or

“(ii) in the case of any transferee’s agent, such agent has actual knowledge that such affidavit is false, such agent shall so notify the transferee at such time and in such form and manner as the Secretary may require by regulations.

“(D) FAILURE TO FURNISH NOTICE.—

“(i) IN GENERAL.—If any transferor’s agent or transferee’s agent is required by subparagraph (C) to furnish notice, but fails to furnish such notice at such time or times and in such manner as may be required by regulations, such agent shall have the same duty to deduct and withhold that the transferee would have had if such agent had complied with subparagraph (C).

“(ii) LIABILITY LIMITED TO AMOUNT OF COMPENSATION.—An agent’s liability
under clause (i) shall be limited to the
amount of compensation the agent derives
from the transaction.

“(E) Transferor’s agent.—For purposes of this paragraph, the term ‘transferor’s agent’ means any person who represents the transferor—

“(i) in any negotiation with the transferee or any transferee’s agent related to the transaction, or

“(ii) in settling the transaction.

“(F) Transferee’s agent.—For purposes of this paragraph, the term ‘transferee’s agent’ means any person who represents the transferee—

“(i) in any negotiation with the transferee or the transferor’s agent related to the transaction, or

“(ii) in settling the transaction.

“(G) Settlement officer not treated as transferor’s agent.—For purposes of this paragraph, a person shall not be treated as a transferor’s agent or transferee’s agent with respect to any transaction merely because such
person performs 1 or more of the following acts:

“(i) The receipt and the disbursement of any portion of the consideration for the transaction.

“(ii) The recording of any document in connection with the transaction.”.

(C) Section 1446(f)(4) of such Code is amended—

(i) by inserting “or if any transferor’s agent or transferee’s agent fails to withhold any amount required to be withheld under paragraph (2)(D) (determined without regard to clause (ii) thereof),” after “withheld under paragraph (1),”, and

(ii) by striking “the amount the transferee failed to withhold” and inserting “the amount the transferee, transferor’s agent, or transferee’s agent (as the case may be) so failed to withhold”.

(D) Section 1446(f) of such Code is amended by striking paragraph (5) and by redesignating paragraph (6) as paragraph (5).

(3) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 3 of such Code is
amended by striking the item relating to section 1445.

(c) REPEAL OF SPECIAL REPORTING REQUIREMENTS WITH RESPECT TO UNITED STATES REAL PROPERTY INTERESTS.—

(1) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 of such Code is amended by striking section 6039C.

(2) CONFORMING AMENDMENT.—Section 6652 of such Code is amended by striking subsection (f).

(3) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of subchapter A of chapter 61 of such Code is amended by striking the item relating to section 6039C.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to dispositions and distributions after the date of the enactment of this Act.

(2) REPORTING REQUIREMENTS.—

(A) IN GENERAL.—The amendments made by subsection (e) shall apply to calendar years beginning after the date of the enactment of this Act.
(B) TRANSITION RULE.—In the case of the calendar year which includes the date of the enactment of this Act, section 6039C of the Internal Revenue Code of 1986 shall be applied by only taking into account interests held during the portion of such calendar year which precedes the date of the enactment of this Act.