



Side-by-Side Comparison of International Tax Provisions in Thomas (H.R. 2896), Hatch (S. 1476), and Crane/Rangel (H.R. 1796) Bills

Proposal

ETI
(Sec. 4001 of Thomas Bill, Sec. 101 of Hatch Bill, and Sec. 2 of Crane-Rangel Bill)

Domestic Production Activities
(Sec. 3 of Crane-Rangel Bill)

Thomas

Repealed for transactions after 2003 with transition relief as follows: 65% of current benefit in 2004; 35% of current benefit in 2005. The FSC grandfather rules are retained.

No Provision.

Hatch

Repealed with transition relief as follows: 75% of current benefit in 2004; 50% of current benefit in 2005; 25% of current benefit in 2006. The FSC grandfather rules are retained (with modifications).

No Provision.

Crane/Rangel

Repealed for transactions after date of enactment with transition relief. ETI rules retained for transactions in the ordinary course of trade or business under binding contract with unrelated person in effect on April 11, 2003.

Allow base amount of ETI benefits, first indexed and then phased out as follows: 100% in 2004-2005, 75% in 2006-2007, 50% in 2008, and 0% in 2009 and thereafter. The FSC grandfather rules would be retained.

Deduction allowed for certain income attributable to domestic production activities, phased in as follows: 1% in 2006, 2% in 2007, 4% in 2008, 9% in 2009 and 10% in 2010 and thereafter. The benefit is reduced to the extent that the taxpayer has foreign production activities (the so-called "foreign production haircut").



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Proposal	Thomas	Hatch	Crane/Rangel
Repatriation from CFCs (Sec. 1021 of Thomas Bill and Sec. 211 of Hatch Bill)	<p>For 6-month period, taxpayers permitted an election to apply an 80% dividends-received deduction (7% rate) to dividends from CFCs in excess of a base period amount (the annual average of dividends including section 956 amounts for the past five years, excluding the years with the highest and lowest amount of dividends).</p> <p>Qualifying amounts are further limited to amounts shown on the most recently audited financial statement as being permanently reinvested outside the United States. The benefits are subject to recapture in the event that the taxpayer's repatriation level falls below the base period average during the 10 years following the year in which the benefit is claimed. Effective for the first taxable year on or after date of enactment or the last taxable year beginning before date of enactment.</p>	<p>On a permanent basis, taxpayers permitted to elect on an annual basis a 5.25% rate (85% dividends-received deduction) on dividends from CFCs to the extent that a company's spending on equipment and research exceeds an "innovation baseline" (85% of the average spending on equipment and research over the past three years).</p> <p>Effective for taxable years beginning after December 31, 2003.</p>	No provision.



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Earnings Stripping (Sec. 2001 of Thomas Bill and Sec. 255 of Hatch Bill)	<p>The 1.5 to 1 debt-to-equity "safe harbor" is repealed; the ATI threshold is reduced to 25% (35% in 2004) for related-party debt; the 50% ATI limitation is maintained for guaranteed debt; the 3-year excess limitation carryforward is repealed; and the carryover period on disallowed interest is reduced to 10 years.</p> <p>Effective generally for taxable years beginning after December 31, 2003 (effective for certain inverted structures for taxable years ending after March 4, 2003).</p>	<p>Section 163(j) liberalized by permitting a deduction of interest on unrelated party debt guaranteed by a foreign person if the taxpayer establishes that it could have borrowed the same amount from an unrelated lender without a guarantee. Regulatory authority is granted to disallow interest on such guaranteed debt if the terms of the loan without the guarantee would be substantially dissimilar.</p> <p>Effective for guarantees issued on or after date of enactment.</p>	No provision.
Corporate Inversions (Sec. 2002-2004 of Thomas Bill)	<p>Certain inverting companies required to pay the full U.S. tax on the transfer of assets by a U.S. corporation as part of the inversion; 15% excise tax imposed on certain stock-based compensation of insiders; and tax treatment of foreign reinsurance agreements modified.</p> <p>Inversion proposal is effective for taxable years ending after March 4, 2003; excise tax proposal generally is effective as of March 4, 2003; reinsurance proposal is effective after date of enactment.</p>	No provision.	No provision.



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Proposal	Thomas	Hatch	Crane/Rangel
<p>Subpart F Reform Foreign Base Company Sales and Services Income Rules (Sec. 1101 of Thomas Bill and Sec. 201 of Hatch Bill)</p>	<p>Repealed, with income from sales of products made and sold for use or consumption in U.S. still subject to tax under subpart F as FPHCI.</p> <p>Effective for taxable years of foreign corporations beginning after December 31, 2005, and to taxable years of U.S. shareholders with or within which such taxable years end.</p>	<p>Repealed, conditioned on income derived from transaction with a CFC eligible for the benefits of a comprehensive U.S. treaty that the Treasury determines is satisfactory for this purpose and which has an exchange of information program, or where companies enter into APAs with IRS. Income from sales of products made and sold for use or consumption in U.S. still subject to tax under subpart F as FPHCI.</p> <p>Effective for taxable years of foreign corporations beginning after December 31, 2005, and to taxable years of U.S. shareholders with or within which such taxable years end.</p>	<p>No provision.</p>
<p>Active Financing Income Exception (Sec. 1102 of Thomas Bill and Sec. 206 of Hatch Bill)</p>	<p>Extended for one year through the end of 2007.</p>	<p>Extended permanently.</p>	<p>No provision.</p>
<p>Payments Between Related CFCs under FPHCI Rules (Sec. 1103 of Thomas Bill and Sec. 202 of Hatch Bill)</p>	<p>Dividends, interest, rents and royalties received by one CFC from a related CFC are not treated as FPHCI to the extent attributable to non-subpart F earnings of the payor.</p>	<p>Same provision.</p>	<p>No provision.</p>
<p>Sales of Partnership Interests by CFCs (Sec. 1104 of Thomas Bill and Sec. 203 of Hatch Bill)</p>	<p>Sale of a partnership interest by a 25% CFC partner treated as the sale of a proportionate share of partnership assets for purposes of determining FPHCI under subpart F.</p>	<p>Same provision.</p>	<p>No provision.</p>



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Proposal	Thomas	Hatch	Crane/Rangel
Foreign Personal Holding Company and Foreign Investment Company Rules (Sec. 1105 of Thomas Bill and Sec. 204 of Hatch Bill)	Repealed. Certain personal services contract income subject to the present-law foreign personal holding company rules included as subpart F FPHCI.	Same provision.	No provision.
Foreign Base Company Oil Related Income (Sec. 1106 of Thomas Bill and Sec. 205 of Hatch Bill)	Exception provided for pipeline transportation of oil or gas within a foreign country.	Same provision.	No provision.
Commodity Hedging Transactions (Sec. 1107 of Thomas Bill and Sec. 209 of Hatch Bill)	Exception for commodity hedging transactions conformed to existing rules for asset hedging transactions. Effective for transactions entered into after December 31, 2004.	Same provision.	No provision.
Foreign Base Company Shipping Income Rules (Sec. 1108 of Thomas Bill and Sec. 210 of Hatch Bill)	Repealed. Safe harbor from subpart F FPHCI for rents derived from leasing aircraft or vessels in foreign commerce. Such rents are treated as active income if active leasing expenses comprise at least 10% of the profit on the lease.	Repealed. Safe harbor from subpart F altogether for certain income derived from leasing or renting aircraft or vessels. The rents and gains must be derived from an active leasing business in which the CFC conducts substantial activity, and the leased property is used by an unrelated lessee/end-user in foreign commerce outside the U.S. Effective for taxable years of foreign corporations beginning after December 31, 2005, and to taxable years of U.S. shareholders with or within which such taxable years end.	No provision.
Expansion of De Minimis Rule (Sec. 207 of Hatch Bill)	No provision.	Subpart F de minimis rule expanded to be the lesser of 5% of gross income or \$5 million.	No provision.



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Proposal	Thomas	Hatch	Crane/Rangel
<p>Modify Interaction between Subpart F and PFIC rules (Sec. 208 of Hatch Bill)</p>	<p>No provision.</p>	<p>Exception added to the rules eliminating the overlap of the subpart F and PFIC rules for U.S. shareholders that face only a remote likelihood of incurring subpart F inclusion in the event that a CFC earns subpart F income. Effective for taxable years of foreign corporations beginning after December 31, 2003, and to taxable years of U.S. shareholders with or within which such taxable years end.</p>	<p>No provision.</p>
<p>General Effective Dates (Sec. 1109 of Thomas Bill and Sec. 212 of Hatch Bill)</p>	<p>Except as otherwise provided above, effective for taxable years of foreign corporations beginning after December 31, 2004, and to taxable years of U.S. shareholders with or within which such taxable years end.</p>	<p>Same provision.</p>	<p>No provision.</p>
<p>Foreign Tax Credit Reform Allocation and Apportionment of Interest Expense (Sec. 1111 of Thomas Bill and Sec. 221 of Hatch Bill)</p>	<p>Taxpayers allowed to make a one-time election to apportion and allocate interest expense on a worldwide fungibility basis, including controlled foreign corporations in the definition of an expanded affiliated group for these purposes. One-time financial institution group election also provided that expands the present-law bank group. Effective for taxable years beginning after December 31, 2005.</p>	<p>Same provision.</p>	<p>No provision.</p>



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<p>Overall Domestic Loss Recharacterization (Sec. 1112 of Thomas Bill and Sec. 227 of Hatch Bill)</p>	<p>Taxpayers allowed to recharacterize as foreign-source income a portion of the taxpayer's U.S. source income for a tax year in an amount equal to the lesser of (1) the amount of the uncharacterized "overall domestic loss", or (2) 50% of the taxpayer's U.S. source income for that year. Effective for losses incurred in taxable years beginning after December 31, 2004.</p>	<p>Same provision.</p>	<p>No provision.</p>
<p>Reduction of FTC Baskets (Sec. 1113 of Thomas Bill and Sec. 226 of Hatch Bill)</p>	<p>Current nine baskets reduced to two: passive (current definition of passive, plus dividends from a DISC, distributions from a FSC and foreign trade income) and active income. Effective for taxable years beginning after December 31, 2004.</p>	<p>Current nine baskets reduced to two: general category income (income from the present-law general limitation basket, as well as income from the high withholding interest income and financial services income baskets) and typically low-taxed income (income from the passive, shipping and DISC/FSC baskets). Effective for taxable years beginning after December 31, 2004.</p>	<p>No provision.</p>



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Proposal	Thomas	Hatch	Crane/Rangel
<p>Extension of Foreign Credit Carryforward Periods (Sec. 1114 of Thomas Bill and Secs. 222-223 of Hatch Bill)</p>	<p>Carryforward period extended from 5 to 10 years. Effective for foreign tax credits that may be carried to any taxable years beginning after December 31, 2004.</p>	<p>Carryforward period extended from 5 to 20 years. Utilization of foreign tax credits reordered so that credits carried from prior years are used before current year credits on a FIFO basis. Extension effective for excess foreign taxes arising in taxable years beginning after December 31, 2003. Reordering effective for taxes paid or accrued for taxable years beginning after December 31, 2003, and to carryforwards of taxes from taxable years beginning after December 31, 1997.</p>	<p>No provision.</p>
<p>Look-Through Rule for 10/50 Companies (Sec. 1115 of Thomas Bill and Secs. 225 and 223 of Hatch Bill)</p>	<p>Look-through rules applied to dividends of a 10/50 company, regardless of the year the E&P from which a dividend is paid were accumulated. Effective for taxable years beginning after December 31, 2002.</p>	<p>Similar provision. Look-through rules also applied to interest, rents, and royalties received from a 10/50 company, effective for taxable years beginning after December 31, 2004.</p>	<p>No provision.</p>
<p>Attribution of Stock Ownership Through Partnership (Sec. 1116 of Thomas Bill and Sec. 231 of Hatch Bill)</p>	<p>Domestic corporation entitled to claim deemed paid indirect foreign tax credits with respect to a foreign corporation that is held indirectly through a foreign or domestic partnership, provided that the domestic corporation owns indirectly through the partnership at least 10% of the foreign corporation's voting stock. Effective for taxable years of corporations beginning on or after date of enactment.</p>	<p>Same provision.</p>	<p>No provision.</p>



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Proposal	Thomas	Hatch	Crane/Rangel
Clarification of Treatment of Deemed Royalty Payments (Sec. 1117 of Thomas Bill and Sec. 234 of Hatch Bill)	Deemed payments with respect to transfers of certain intangibles are treated as royalties for basketing purposes. Effective retroactively to amounts treated as received on or after August 5, 1997.	Same provision.	No provision.
Repeal of Limitations of FTC under AMT (Sec. 1061 of Thomas Bill and Sec. 224 of Hatch Bill)	90% limitation repealed on the use of the AMT FTC. Effective for taxable years beginning after December 31, 2003.	Same provision.	No provision.
Equal Treatment for Interest Paid by Foreign Partnerships and Corporations doing Business in the U.S. (Sec. 232 of Hatch Bill)	No provision.	Foreign-source treatment provided for interest paid by a foreign partnership that is not engaged in a U.S. trade or business and not allocable to income effectively connected with a U.S. trade or business. Effective for taxable years beginning after December 31, 2003.	No provision.
Repeal of Rules Relating to Foreign Oil and Gas Income (Sec. 228 of Hatch Bill)	No provision.	Special limitation rules of section 907 for applying the foreign tax credit to foreign oil and gas income repealed. Effective for taxable years beginning after December 31, 2005.	No provision.
Increase in Individual Exemption from Foreign Tax Credit Limitation (Sec. 229 of Hatch Bill)	No provision.	Individual exemption amount increased to \$500 with cost of living adjustments. Effective for taxable years beginning after December 31, 2003.	No provision.



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<p>Other International Tax Simplifications Application of UNICAP Rules to Foreign Persons (Sec. 1118 of Thomas Bill and Sec. 251 of Hatch Bill)</p>	<p>U.S. GAAP applied in lieu of UNICAP rules for capitalizing costs incurred in producing property or acquiring property for resale. UNICAP rule applied to foreign persons only for purposes of taxing income effectively connected with the conduct of a U.S. trade or business. Effective for taxable years beginning after December 31, 2004.</p>	<p>Same provision.</p>	<p>No provision.</p>
<p>U.S. Property Not to Include Certain Financial Assets Acquired in the Ordinary Course of Business (Sec. 1119 of Thomas Bill and Sec. 230 of Hatch Bill)</p>	<p>Certain securities held by securities or commodities dealer in the ordinary course of trade or business excluded from "U.S. property" definition if securities held primarily for sale to customers and disposed of within reasonable period. Effective for taxable years of foreign corporations beginning after December 31, 2004, and for taxable years of U.S. shareholders with or within which such taxable year ends.</p>	<p>Similar provision. Obligations excluded for a U.S. person which is not a U.S. corporation or which is not a U.S. shareholder of a CFC or a partnership, estate or trust in which the CFC or a related person is a partner, beneficiary or trustee immediately after the acquisition of the obligation by the CFC.</p>	<p>No provision.</p>
<p>Treatment of Certain Dividends of RICs (Sec. 1120 of Thomas Bill and Sec. 252 of Hatch Bill)</p>	<p>Certain dividends received by nonresident alien individuals or foreign corporations from mutual fund excluded from U.S. withholding tax to the extent attributable to interest and short-term capital gains of the RIC. Generally effective for taxable years of RICs beginning after date of enactment.</p>	<p>Same provision.</p>	<p>No provision.</p>



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Proposal	Thomas	Hatch	Crane/Rangel
<p>Repeal of Withholding Tax on Dividends from Certain Foreign Corporations (Sec. 1122 of Thomas Bill and Sec. 253 of Hatch Bill)</p>	<p>Secondary withholding tax on dividends paid by certain foreign corporations repealed. Effective for payments made after December 31, 2004.</p>	<p>Same provision.</p>	<p>No provision.</p>
<p>Airline Mileage Awards to Certain Foreign Persons (Sec. 254 of Hatch Bill)</p>	<p>No provision.</p>	<p>Airline mileage awards issued to individuals whose mailing address is outside the U.S. excluded from excise taxes. Effective for amounts paid or benefits provided after December 31, 2003.</p>	<p>No provision.</p>
<p>Modification of Reporting Requirements for Certain Foreign Owned Corporations (Sec. 256 of Hatch Bill)</p>	<p>No provision.</p>	<p>De minimis exception from reporting requirements provided if the aggregate value of transactions with related foreign parties during a year does not exceed \$5 million, with 60-day window for translating documents into English. Generally effective for taxable years beginning after December 31, 2003.</p>	<p>No provision.</p>
<p>Repeal of Tax on Certain U.S. Source Capital Gains of Nonresident Aliens (Sec. 257 of Hatch Bill)</p>	<p>No provision.</p>	<p>Special tax on U.S. source capital gains of non-resident aliens present in the U.S. for 183 days or more repealed. Effective for taxable years beginning after December 31, 2003.</p>	<p>No provision.</p>
<p>Election Not to Use Average Exchange Rate for Foreign Tax Paid in Nonfunctional Currency (Sec. 1121 of Thomas Bill and Sec. 258 of Hatch Bill)</p>	<p>Election provided to translate foreign income tax payments using spot rates on date of payment, provided the taxes are denominated in a non-functional currency. Effective for taxable years beginning after December 31, 2004.</p>	<p>Same provision.</p>	<p>No provision.</p>



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Treasury Studies	<p>Treasury Department directed to conduct three separate studies on transfer pricing rules, U.S. income tax treaties, and the earnings stripping and corporate inversion provisions in the bill. The transfer pricing study is due by June 30, 2004, the treaty study is due by the end of 2003, and the earnings stripping and corporate inversion studies are due by the end of 2005.</p>	<p>Treasury directed to conduct a study of the impact of Federal international tax rules on taxpayers other than large corporations, including compliance burdens. A report to the Senate Finance Committee and House Ways and Means Committee is due no later than 180 days after date of enactment.</p>	No provision.
<p>Other Provisions Minimum Holding Period Requirement on Withholding Taxes Other Than Dividends (Sec. 301 of the Thomas Bill)</p>	<p>Present-law disallowance of foreign tax credits expanded to include credits for gross-basis withholding taxes with respect to any item of income or gain (other than dividends) if the taxpayer did not hold the property for more than 15 days (within a 30-day testing period), exclusive of periods during which the taxpayer is protected from risk of loss. Exceptions are provided for property held by active dealers. Effective for amounts paid or accrued more than 30 days after date of enactment.</p>	No provision.	No provision.



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Proposal

Revision of Tax Rules on Expatriation of Individuals (Sec. 2005 of Thomas Bill)

Thomas

“Objective” standards provided for determining whether former citizens or former long-term residents are subject to the alternative tax regime; full U.S. tax imposed on individuals subject to the alternative tax regime who return to the U.S. for extended periods; U.S. gift tax imposed on gifts of stock of closely-held foreign corporations that hold U.S. situated property; an annual filing requirement imposed for individuals subject to the alternative regime for 10 years following expatriation. Effective for individuals who relinquish citizenship or terminate long-term residency after February 27, 2003.

Hatch

No provision.

Crane/Rangel

No provision.