

1 **“SEC. 899. ENFORCEMENT OF REMEDIES AGAINST UNFAIR**
2 **FOREIGN TAXES.**

3 “(a) INCREASED RATES OF TAX ON FOREIGN PER-
4 SONS OF DISCRIMINATORY FOREIGN COUNTRIES.—

5 “(1) TAXES OTHER THAN WITHHOLDING
6 TAXES.—

7 “(A) IN GENERAL.—In the case of any ap-
8 plicable person, each specified rate of tax (or
9 any rate of tax applicable in lieu of such statu-
10 tory rate) shall be increased by the applicable
11 number of percentage points.

12 “(B) SPECIFIED RATE OF TAX.—For pur-
13 poses of this paragraph, the term ‘specified rate
14 of tax’ means—

15 “(i) the rates of tax specified in para-
16 graphs (1) and (2) of section 871(a),

17 “(ii) in the case of any applicable per-
18 son to which section 871(b) applies, each
19 rate of tax in effect under section 1,

20 “(iii) the rate of tax specified in sec-
21 tion 881(a),

22 “(iv) in the case of any applicable per-
23 son to which section 882(a) applies, the
24 rate of tax specified in section 11(b),

25 “(v) the rate of tax specified in sec-
26 tion 884(a), and

1 “(vi) the rate of tax specified in sec-
2 tion 4948(a).

3 “(C) APPLICATION OF INCREASED RATES
4 TO EFFECTIVELY CONNECTED INCOME OF NON-
5 RESIDENT ALIEN INDIVIDUALS LIMITED TO
6 GAINS ON UNITED STATES REAL PROPERTY IN-
7 TERESTS.—In the case of any individual to
8 whom subparagraph (A) applies, the tax im-
9 posed under section 1 on such individual (after
10 application of subparagraph (A)) shall be re-
11 duced (but not below zero) by the excess of—

12 “(i) the tax which would be imposed
13 under such section (after application of
14 subparagraph (A)) if FIRPTA items were
15 not taken into account, over

16 “(ii) the tax which would be imposed
17 under such section if FIRPTA items were
18 not taken into account, and subparagraph
19 (A) did not apply.

20 For purposes of this clause, the term ‘FIRPTA
21 items’ means gains and losses taken into ac-
22 count under section 871(b)(1) by reason of sec-
23 tion 897(a)(1)(A).

24 “(D) APPLICATION OF INCREASED RATES
25 TO CERTAIN FOREIGN GOVERNMENTS.—In the

1 case of any applicable person described in sub-
2 section (b)(1)(A), section 892(a) shall not
3 apply.

4 “(2) MODIFICATION OF BASE EROSION AND
5 ANTI-ABUSE TAX.—In the case of any corporation
6 described in subsection (b)(1)(E) (applied by sub-
7 stituting ‘corporation’ for ‘foreign corporation’)—

8 “(A) such corporation shall be treated as
9 described in subparagraphs (B) and (C) of sec-
10 tion 59A(e)(1) for purposes of determining
11 whether such corporation is an applicable tax-
12 payer,

13 “(B) section 59A(b)(1) shall be applied
14 by—

15 “(i) substituting ‘12.5 percent’ for ‘10
16 percent’ in subparagraph (A), and

17 “(ii) by treating the amount described
18 in section 59A(b)(1)(B)(ii) as being zero,

19 “(C) subsections (c)(2)(B), (c)(4)(B)(ii),
20 and (d)(5) of section 59A shall not apply, and

21 “(D) if any amount (other than the pur-
22 chase price of depreciable or amortizable prop-
23 erty or inventory) would have been a base ero-
24 sion payment described in section 59A(d)(1)
25 but for the fact that the taxpayer capitalizes

1 the amount, then solely for purposes of calcu-
2 lating the taxpayer's base erosion payments
3 (within the meaning of section 59A(d)) and
4 base erosion tax benefits (within the meaning of
5 section 59A(c)(2)), such amount shall be treat-
6 ed as if it had been deducted rather than cap-
7 italized.

8 “(3) WITHHOLDING TAXES.—

9 “(A) IN GENERAL.—In the case of any
10 payment to an applicable person, each rate of
11 tax specified in section 1441(a) or 1442(a) (or
12 any rate of tax applicable in lieu of such statu-
13 tory rate) shall be increased by the applicable
14 number of percentage points. The preceding
15 sentence shall not apply to the 14 percent rate
16 of tax specified in section 1441(a).

17 “(B) DISPOSITION OF UNITED STATES
18 REAL PROPERTY INTERESTS.—In the case of
19 any disposition of a United States real property
20 interest (as defined in section 897(c)) by an ap-
21 plicable person, the rate of tax specified in sec-
22 tion 1445(a) (or any rate of tax applicable in
23 lieu of such statutory rate) shall be increased
24 by the applicable number of percentage points.

1 “(C) OTHER DISPOSITIONS AND DISTRIBUTIONS
2 RELATED TO UNITED STATES REAL
3 PROPERTY INTERESTS.—In the case of any dis-
4 position or distribution described in any para-
5 graph of section 1445(e), each rate of tax in
6 such paragraph (or any rate of tax applicable in
7 lieu of such statutory rate) shall be increased
8 by the applicable number of percentage points
9 if—

10 “(i) in the case of section 1445(e)(1),
11 the foreign person referred to in subpara-
12 graph (A) or (B) of such section is an ap-
13 plicable person,

14 “(ii) in the case of section 1445(e)(2),
15 the foreign corporation referred to in such
16 section is an applicable person,

17 “(iii) in the case of section
18 1445(e)(3), the foreign shareholder re-
19 ferred to in such section is an applicable
20 person,

21 “(iv) in the case of section 1445(e)(4),
22 the foreign person referred to in such sec-
23 tion is an applicable person,

1 “(v) in the case of section 1445(e)(5),
2 the Secretary issues regulations or other
3 guidance providing for such increase, and

4 “(vi) in the case of section 1445(e)(6),
5 the nonresident alien individual or foreign
6 corporation referred to in such section is
7 an applicable person.

8 “(4) APPLICABLE NUMBER OF PERCENTAGE
9 POINTS.—For purposes of this paragraph—

10 “(A) IN GENERAL.—The term ‘applicable
11 number of percentage points’ means, with re-
12 spect to any discriminatory foreign country—

13 “(i) with respect to the 1-year period
14 beginning on the applicable date with re-
15 spect to such foreign country, 5 percentage
16 points, and

17 “(ii) with respect to any period after
18 the 1-year period to which clause (i) ap-
19 plies, the sum of —

20 “(I) 5 percentage points, plus

21 “(II) an additional 5 percentage
22 points for each annual anniversary of
23 such applicable date which has oc-
24 curred before the beginning of such
25 period.

1 “(B) CAP ON INCREASE.—Notwithstanding
2 subparagraph (A), the increase in any rate
3 under paragraph (1) or (3) shall not result in
4 such rate exceeding the amount of the statutory
5 rate (determined without regard to any rate ap-
6 plicable in lieu of such statutory rate) increased
7 by 20 percentage points.

8 “(C) APPLICABLE DATE.—For purposes of
9 this section, the term ‘applicable date’ means,
10 with respect to any discriminatory foreign coun-
11 try, the first day of the first calendar year be-
12 ginning on or after the latest of—

13 “(i) 90 days after the date of enact-
14 ment of this section,

15 “(ii) 180 days after the date of enact-
16 ment of the unfair foreign tax that causes
17 such country to be treated as a discrimina-
18 tory foreign country, or

19 “(iii) the first date that an unfair for-
20 eign tax of such country begins to apply.

21 “(D) APPLICATION TO TAXABLE YEARS.—
22 For purposes of paragraph (1), the applicable
23 number of percentage points is the applicable
24 number of percentage points in effect for the
25 discriminatory foreign country during the tax-

1 payer's taxable year. If more than one applica-
2 ble number of percentage points is in effect for
3 the discriminatory foreign country during the
4 taxpayer's taxable year, the applicable number
5 of percentage points shall be determined by
6 using a weighted average rate based on each
7 applicable number of percentage points in effect
8 during such taxable year and the number of
9 days during which it was in effect. For pur-
10 poses of the prior sentence, the applicable num-
11 ber of percentage points in effect for the dis-
12 criminatory foreign country for the period be-
13 fore the applicable date is treated as zero, and,
14 if the taxpayer ceases to be an applicable per-
15 son during its taxable year, the applicable num-
16 ber of percentage points in effect for the dis-
17 criminatory foreign country for the period after
18 the taxpayer ceased to be an applicable person
19 is treated as zero.

20 “(E) APPLICATION TO WITHHOLDING
21 TAXES.—For purposes of paragraph (3), the
22 applicable number of percentage points shall be
23 determined with respect to the date of the pay-
24 ment or disposition, as the case may be.

1 “(F) MULTIPLE DISCRIMINATORY FOREIGN
2 COUNTRIES.—For purposes of paragraphs (1)
3 and (3), if, on any day, the taxpayer is an ap-
4 plicable person with respect to more than one
5 discriminatory foreign country, the highest ap-
6 plicable number of percentage points in effect
7 shall apply.

8 “(G) INCREASE NOT APPLICABLE TO NON-
9 DISCRIMINATORY FOREIGN COUNTRIES.—In the
10 case of any foreign country which is not a dis-
11 criminatory foreign country, the applicable
12 number of percentage points is zero.

13 “(5) YEARS TO WHICH APPLICABLE.—

14 “(A) TAXABLE YEAR.—In the case of any
15 person, paragraphs (1) and (2) shall apply to
16 each taxable year beginning—

17 “(i) after the later of—

18 “(I) 90 days after the date of en-
19 actment of this section,

20 “(II) 180 days after the date of
21 enactment of the unfair foreign tax
22 that causes such country to be treated
23 as a discriminatory foreign country,
24 or

1 “(III) the first date that an un-
2 fair foreign tax of such country begins
3 to apply, and

4 “(ii) before the last date on which the
5 discriminatory foreign country imposes an
6 unfair foreign tax.

7 “(B) WITHHOLDING.—In the case of any
8 person, paragraph (3) shall apply to each cal-
9 endar year beginning during the period that
10 such person is an applicable person.

11 “(C) SAFE HARBOR FOR WITHHOLDING.—
12 Paragraph (3) shall not apply—

13 “(i) in the case of any applicable per-
14 son to which clause (ii) does not apply, if
15 the discriminatory foreign country with re-
16 spect to which such person is an applicable
17 person is not listed by the Secretary as a
18 discriminatory foreign country, and

19 “(ii) in the case of any applicable per-
20 son described in subparagraph (E) or (F)
21 of subsection (b)(1), if the discriminatory
22 foreign country with respect to which such
23 person is an applicable person (and such
24 country’s applicable date) has been listed
25 in such guidance for less than 90 days.

1 “(D) TEMPORARY SAFE HARBOR FOR
2 WITHHOLDING AGENTS.—No penalties or inter-
3 est shall be imposed with respect to failures, be-
4 fore January 1, 2027, to deduct or withhold
5 any amounts by reason of paragraph (3) if the
6 person required to deduct or withhold such
7 amounts demonstrates to the satisfaction of the
8 Secretary that such person made best efforts to
9 comply with paragraph (3) in a timely manner.

10 “(b) APPLICABLE PERSON.—For purposes of this
11 section—

12 “(1) IN GENERAL.—Except as otherwise pro-
13 vided by the Secretary, the term ‘applicable person’
14 means—

15 “(A) any government (within the meaning
16 of section 892) of any discriminatory foreign
17 country,

18 “(B) any individual (other than a citizen
19 or resident of the United States) who is tax
20 resident of a discriminatory foreign country,

21 “(C) any foreign corporation (other than a
22 United States-owned foreign corporation, as de-
23 fined in section 904(h)(6)) which is a tax resi-
24 dent of a discriminatory foreign country,

1 “(D) any private foundation (within the
2 meaning of section 4948) created or organized
3 in a discriminatory foreign country,

4 “(E) any foreign corporation (other than a
5 publicly held corporation) if more than 50 per-
6 cent of—

7 “(i) the total combined voting power
8 of all classes of stock of such corporation
9 entitled to vote, or

10 “(ii) the total value of the stock of
11 such corporation,
12 is owned (within the meaning of section 958(a))
13 by persons described in this paragraph,

14 “(F) any trust the majority of the bene-
15 ficial interests of which are held (directly or in-
16 directly) by persons described in this para-
17 graph, and

18 “(G) foreign partnerships, branches, and
19 any other entity identified with respect to a dis-
20 criminatory foreign country by the Secretary
21 for purposes of this subsection.

22 “(2) CONTINUATION OF TREATMENT DURING
23 CERTAIN PERIODS.—For purposes of this section, if
24 a person would cease to be an applicable person for
25 a period of less than one year, such person shall con-

1 tinue to be treated as an applicable person during
2 such period.

3 “(c) UNFAIR FOREIGN TAX.—For purposes of this
4 section—

5 “(1) IN GENERAL.—The term ‘unfair foreign
6 tax’ means an undertaxed profits rule (UTPR), dig-
7 ital services tax, diverted profits tax, and, to the ex-
8 tent provided by the Secretary, an extraterritorial
9 tax, discriminatory tax, or any other tax enacted
10 with a public or stated purpose indicating the tax
11 will be economically borne, directly or indirectly, dis-
12 proportionately by United States persons. Such term
13 shall not include any tax which neither applies to—

14 “(A) any United States person (including
15 a trade or business of a United States person),
16 nor

17 “(B) any foreign corporation (including a
18 trade or business of such foreign corporation) if
19 the foreign corporation is a controlled foreign
20 corporation and more than 50 percent of the
21 total combined voting power of all classes of
22 stock of such corporation entitled to vote, or the
23 total value of the stock of such corporation) is
24 owned (within the meaning of section 958(a))
25 by United States persons.

1 “(2) EXTRATERRITORIAL TAX.—The term
2 ‘extraterritorial tax’ means any tax imposed by a
3 foreign country on a corporation (including any
4 trade or business of such corporation) which is de-
5 termined by reference to any income or profits re-
6 ceived by any person (including any trade or busi-
7 ness of any person) by reason of such person being
8 connected to such corporation through any chain of
9 ownership, determined without regard to the owner-
10 ship interests of any individual, and other than by
11 reason of such corporation having a direct or indi-
12 rect ownership interest in such person.

13 “(3) DISCRIMINATORY TAX.—The term ‘dis-
14 criminatory tax’ means any tax imposed by a foreign
15 country if—

16 “(A) such tax applies more than inciden-
17 tally to items of income that would not be con-
18 sidered to be from sources, or effectively con-
19 nected to a trade or business, within the foreign
20 country under the rules of part I of this sub-
21 chapter if such part were applied by treating
22 such foreign country as though it were the
23 United States,

1 “(B) such tax is imposed on a base other
2 than net income and is not computed by per-
3 mitting recovery of costs and expenses,

4 “(C) such tax is exclusively or predomi-
5 nantly applicable, in practice or by its terms, to
6 nonresident individuals and foreign corporations
7 or partnerships (as determined under rules
8 similar to paragraphs (4) and (5) of section
9 7701(a) by treating the foreign country as
10 though it were the United States) because of
11 the application of revenue thresholds, exemp-
12 tions or exclusions for taxpayers subject to such
13 foreign country’s corporate income tax, or re-
14 strictions of scope that ensure that substantially
15 all residents (other than foreign corporations
16 and partnerships (as so determined)) supplying
17 comparable goods or services are excluded from
18 the application of such tax, or

19 “(D) such tax is not treated as an income
20 tax under the laws of such foreign country or
21 is otherwise treated by such foreign country as
22 outside the scope of any agreements that are in
23 force between such foreign country and one or
24 more other jurisdictions for the avoidance of
25 double taxation with respect to taxes on income.

1 “(4) EXCEPTIONS.—Except as otherwise pro-
2 vided by the Secretary, the terms ‘extraterritorial
3 tax’ and ‘discriminatory tax’ shall not include any
4 generally applicable tax which constitutes—

5 “(A) an income tax generally imposed on
6 the income of citizens or residents of the for-
7 eign country, even if the computation of income
8 includes payments that would be foreign source
9 income under part I of this subchapter,

10 “(B) an income tax which would be an un-
11 fair foreign tax (determined without regard to
12 this subparagraph) solely because it is imposed
13 on the income of nonresidents attributable to a
14 trade or business in such foreign country,

15 “(C) an income tax which would be an un-
16 fair foreign tax (determined without regard to
17 this subparagraph) solely because it is imposed
18 on citizens or residents of such foreign country
19 by reference to the income of a corporate sub-
20 sidiary of such person,

21 “(D) a withholding tax, or other gross
22 basis tax, on any amount described in section
23 871(a)(1) or 881(a), other than any with-
24 holding tax, or other gross basis tax, imposed

1 with respect to services performed by persons
2 other than individuals,

3 “(E) a value added tax, goods and services
4 tax, sales tax, or other similar tax on consump-
5 tion,

6 “(F) a tax imposed with respect to trans-
7 actions on a per-unit or per-transaction basis
8 rather than on an ad valorem basis,

9 “(G) a tax on real or personal property, an
10 estate tax, a gift tax, other similar tax,

11 “(H) a tax which would not be an
12 extraterritorial tax or discriminatory tax (deter-
13 mined without regard to this subparagraph) ex-
14 cept by reason of consolidation or loss sharing
15 rules that generally apply only with respect to
16 income of tax residents of the foreign country,
17 or

18 “(I) any other tax identified by the Sec-
19 retary for purposes of this paragraph.

20 “(d) OTHER DEFINITIONS.—For purposes of this
21 section—

22 “(1) DISCRIMINATORY FOREIGN COUNTRY.—
23 The term ‘discriminatory foreign country’ means any
24 foreign country which has one or more unfair for-
25 eign taxes.

1 “(2) FOREIGN COUNTRY.—The term ‘foreign
2 country’ means a foreign country (or political sub-
3 division thereof) or a dependent territory or posses-
4 sion of a foreign country. Such term does not in-
5 clude any possession of the United States.

6 “(3) TAX.—The term ‘tax’ includes any in-
7 crease in tax whether effectuated by an increase in
8 the rate or base of a tax, by a denial of deductions
9 or credits, or otherwise.

10 “(e) REGULATIONS AND OTHER GUIDANCE.—The
11 Secretary shall issue such regulations or other guidance
12 as may be necessary or appropriate to carry out the pur-
13 poses of this section, including regulations or other guid-
14 ance which—

15 “(1) provide for such adjustments to the appli-
16 cation of this section as are necessary to prevent the
17 avoidance of the purposes of this section, including
18 the application of this section (including subsections
19 (b)(1)(E) and (c)(2)(A)(ii)) with respect to
20 branches, partnerships, and other entities (whether
21 or not otherwise disregarded for purposes of this
22 chapter),

23 “(2) list the discriminatory foreign countries
24 (and each such country’s applicable date) in guid-
25 ance, and update such guidance on a quarterly basis,

1 “(3) provide notice to Congress with respect to
2 changes to the list under paragraph (2),

3 “(4) exercise the authority to provide exceptions
4 under subsections (b)(1), (c)(4), and

5 “(5) prevent the application of subsection
6 (a)(2)(D) from resulting in double counting of
7 amounts for purposes of section 59A(c)(4)(A)(ii).”.

8 (b) CLERICAL AMENDMENT.—The table of sections
9 for subpart D of part II of subchapter N of chapter 1
10 is amended by adding at the end the following new item:

“Sec. 899. Enforcement of remedies against unfair foreign taxes.”.

11 **SEC. 112030. REDUCTION OF EXCISE TAX ON FIREARMS SI-**
12 **LENCERS.**

13 (a) IN GENERAL.—Section 5811(a) is amended to
14 read as follows:

15 “(a) RATE.—There shall be levied, collected, and paid
16 on firearms transferred a tax at the rate of—

17 “(1) \$5 for each firearm transferred in the case
18 of a weapon classified as any other weapon under
19 section 5845(e),

20 “(2) \$0 for each firearm transferred in the case
21 of a silencer (as defined in section 5845(a)(7)), and

22 “(3) \$200 for any other firearm transferred.”.

23 (b) EFFECTIVE DATE.—The amendment made by
24 this section shall apply to transfers after the date of the
25 enactment of this Act.