

# Extension of the Active Financing Exception to Subpart F

## Background

Under current law, U.S. financial services firms--including manufacturers and leasing companies--are allowed to defer U.S. tax on overseas active business income until the income is transferred to the U.S. This rule assures that U.S. financial services companies will only pay a *current* tax in the country where their foreign operations are located.

This rule addresses concerns about U.S. competitiveness and fairness by applying to our financial services companies the same general U.S. rule that defers current U.S. tax on other active trade or business income. This provision benefits U.S. leasing companies as it maintains a level playing field with foreign competitors. For example, a multi-year equipment lease may run 5-7 years and be priced to reflect the active financing provision in current law. Without this provision, U.S. lessors would need to charge a higher rent reflecting the increased tax cost that would arise.

In December 2010, Congress enacted the Tax Relief, Unemployment Insurance, and Job Creation Act of 2010 (P.L. 111-132), which temporarily extended this provision until December 31, 2011. Like other business “tax extenders” this provision will expire at the end of this year.

In the 112<sup>th</sup> Congress, a bipartisan bill was introduced by Congressmen Tiberi (R-OH) and Neal (D-MA) (H.R. 749) on February 16, 2011 to permanently extend the Subpart F Exemption for active financing income. Other Members of Congress have since co-sponsored this bill. A similar effort is underway in the Senate, where Senate Finance Chairman Baucus (D-MT) and Ranking Member Hatch (R-UT) have previously supported a permanent extension of this provision.

ELFA supports this legislation.

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## **Talking Points**

- The ELFA supports the permanent extension of the active financing exception to Subpart F.
- This provision allows U.S. financial services companies--including manufacturers and leasing companies--to compete on a level playing field with their foreign competitors.
- The extension of the active financing provision represents a strong commitment by the Congress to assist U.S. companies competing in international markets.