

115TH CONGRESS
1ST SESSION

H. R. 1451

To amend the Internal Revenue Code of 1986 to modify the treatment
of foreign corporations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 2017

Ms. SCHAKOWSKY introduced the following bill; which was referred to the
Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to modify
the treatment of foreign corporations, and for other purposes.

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 “Corporate Tax Dodg-
5 ing Prevention Act”.

6 **SEC. 2. DEFERRAL OF ACTIVE INCOME OF CONTROLLED**
7 **FOREIGN CORPORATIONS.**

8 (a) IN GENERAL.—Section 952 of the Internal Rev-
9 enue Code of 1986 is amended by adding at the end the
10 following new subsection:

1 “(e) SPECIAL APPLICATION OF SUBPART.—

2 “(1) IN GENERAL.—For taxable years begin-
 3 ning after December 31, 2017, notwithstanding any
 4 other provision of this subpart, the term ‘subpart F
 5 income’ means, in the case of any controlled foreign
 6 corporation, the income of such corporation derived
 7 from any foreign country.

8 “(2) APPLICABLE RULES.—Rules similar to the
 9 rules under the last sentence of subsection (a) and
 10 subsection (d) shall apply to this subsection.”.

11 (b) TREATMENT OF PREVIOUSLY DEFERRED FOR-
 12 EIGN INCOME.—

13 (1) IN GENERAL.—Section 965 of the Internal
 14 Revenue Code of 1986 is amended to read as fol-
 15 lows:

16 **“SEC. 965. INCLUSION OF PREVIOUSLY DEFERRED FOR-**
 17 **EIGN INCOME.**

18 “(a) INCLUSION AS SUBPART F INCOME.—The sub-
 19 part F income (determined under section 952 without re-
 20 gard to this section) of a controlled foreign corporation
 21 for its last taxable year beginning before January 1, 2018,
 22 shall be increased by the accumulated deferred foreign in-
 23 come of the corporation.

24 “(b) ACCUMULATED DEFERRED FOREIGN IN-
 25 COME.—For purposes of this section—

1 “(1) IN GENERAL.—The term ‘accumulated de-
 2 ferred foreign income’ means the excess of—

3 “(A) the undistributed earnings of the con-
 4 trolled foreign corporation, over

5 “(B) the undistributed U.S. earnings of
 6 such controlled foreign corporation.

7 “(2) UNDISTRIBUTED EARNINGS.—

8 “(A) IN GENERAL.—The term ‘undistrib-
 9 uted earnings’ means the earnings and profits
 10 of the controlled foreign corporation described
 11 in section 959(c)(3), determined—

12 “(i) as of the close of the taxable year
 13 described in subsection (a)(1),

14 “(ii) without diminution by reason of
 15 distributions made during such taxable
 16 year, and

17 “(iii) without regard to this section.

18 “(B) SPECIAL RULE FOR CURRENT YEAR
 19 DISTRIBUTIONS.—For purposes of this chapter,
 20 any determination with respect to the treatment
 21 of distributions described in subparagraph
 22 (A)(ii) shall be made after the application of
 23 this section to the earnings and profits de-
 24 scribed in subparagraph (A).

1 “(3) UNDISTRIBUTED U.S. EARNINGS.—The
 2 term ‘undistributed U.S. earnings’ has the meaning
 3 given the term ‘post-1986 undistributed U.S. earn-
 4 ings’ in section 245(a)(5) (as in effect for taxable
 5 years beginning before 2018), determined—

6 “(A) without regard to ‘post-1986’ each
 7 place it appears in the matter before subpara-
 8 graph (A), and

9 “(B) without regard to the last sentence
 10 thereof.

11 “(c) ELECTION TO PAY LIABILITY IN INSTALL-
 12 MENTS.—

13 “(1) IN GENERAL.—In the case of a United
 14 States shareholder with respect to one or more con-
 15 trolled foreign corporations to which subsection (a)
 16 applies, such United States shareholder may elect to
 17 pay the net tax liability under this section in two or
 18 more (but not exceeding eight) equal installments.

19 “(2) DATE FOR PAYMENT OF INSTALLMENTS.—
 20 If an election is made under paragraph (1), the due
 21 date for the first installment shall be the due date
 22 (determined without regard to any extension of time
 23 for filing the return) for the return of tax for the
 24 taxable year of such United States shareholder in
 25 which the increase in subpart F income under sub-

1 section (a) is included in such shareholder's gross in-
2 come under section 951(a)(1) and the due date for
3 each succeeding installment shall be the due date (as
4 so determined) for the return of tax for the taxable
5 year following the taxable year with respect to which
6 the preceding installment was made.

7 “(3) ACCELERATION OF PAYMENT.—If there
8 is—

9 “(A) an assessment of an addition to tax
10 for failure to pay timely with respect to any in-
11 stallment required under this subsection,

12 “(B) a liquidation or sale of substantially
13 all the assets of the taxpayer (including in a
14 title 11 or similar case),

15 “(C) a cessation of business by the tax-
16 payer, or

17 “(D) any similar circumstance,

18 then the unpaid portion of all remaining installments
19 shall be due on the date of such event (or in the case
20 of a title 11 or similar case, the day before the peti-
21 tion is filed).

22 “(4) PRORATION OF DEFICIENCY TO INSTALL-
23 MENTS.—If an election is made under paragraph (1)
24 to pay the net tax liability under this section in in-
25 stallments and a deficiency has been assessed, the

1 deficiency shall be prorated to the installments pay-
2 able under paragraph (1). The part of the deficiency
3 so prorated to any installment the date for payment
4 of which has not arrived shall be collected at the
5 same time as, and as a part of, such installment.
6 The part of the deficiency so prorated to any install-
7 ment the date for payment of which has arrived
8 shall be paid upon notice and demand from the Sec-
9 retary. This paragraph shall not apply if the defi-
10 ciency is due to negligence, to intentional disregard
11 of rules and regulations, or to fraud with intent to
12 evade tax.

13 “(5) RULES RELATING TO INTEREST.—

14 “(A) IN GENERAL.—In the case of any net
15 tax liability prorated to an installment under
16 this subsection, the last date prescribed for pay-
17 ment of the tax for purposes of section 6601(a)
18 shall be the last date for payment of the install-
19 ment rather than the last date for payment of
20 tax for the taxable year in which the net tax li-
21 ability arose.

22 “(B) SPECIAL RULES FOR DEFI-
23 CIENCIES.—

24 “(i) INTEREST PAYABLE FOR ENTIRE
25 PERIOD.—Subparagraph (A) shall not

1 apply to any deficiency prorated to an in-
2 stallment under paragraph (4).

3 “(ii) PAYMENT OF INTEREST ATTRIB-
4 UTABLE TO PRIOR PERIODS.—In the case
5 of a deficiency to which paragraph (4) ap-
6 plies, interest with respect to such defi-
7 ciency which is assigned under paragraph
8 (4) to any installment the date for pay-
9 ment of which has arrived on or before the
10 date of the assessment of the deficiency,
11 shall be paid upon notice and demand from
12 the Secretary.

13 “(6) PERIOD OF ASSESSMENT.—Notwith-
14 standing section 6501, the period for assessing the
15 net tax liability under this section for which an elec-
16 tion is made under paragraph (1) shall not expire
17 before the due date for the last installment.

18 “(7) ELECTION.—Any election under paragraph
19 (1) shall be made not later than the due date for the
20 return of tax for the taxable year of such United
21 States shareholder in which the increase in subpart
22 F income under subsection (a) is included in such
23 shareholder’s gross income under section 951(a)(1)
24 and shall be made in such manner as the Secretary
25 may provide.

1 “(8) NET TAX LIABILITY UNDER THIS SEC-
2 TION.—For purposes of this subsection—

3 “(A) IN GENERAL.—The net tax liability
4 under this section with respect to any United
5 States shareholder is the excess (if any) of—

6 “(i) such taxpayer’s net income tax
7 for the taxable year, over

8 “(ii) such taxpayer’s net income tax
9 for such taxable year determined without
10 regard to this section.

11 “(B) NET INCOME TAX.—The term ‘net
12 income tax’ means the net income tax (as de-
13 fined in section 38(c)(1)) reduced by the credit
14 allowed under section 38.

15 “(C) REGULATIONS.—The Secretary shall
16 prescribe such regulations as may be necessary
17 for the determination under this subsection of
18 the net tax liability under this section in the
19 case of any pass-thru entity.

20 “(d) REGULATIONS.—The Secretary shall promul-
21 gate such regulations as necessary to carry out the pur-
22 poses of this section, including regulations for the applica-
23 tion of this section to pass-through entities all or part of
24 which are owned by one or more domestic corporations.”.

25 (2) CONFORMING AMENDMENTS.—

1 (A) Section 56(g)(4)(C) of the Internal
2 Revenue Code of 1986 is amended by striking
3 clause (vi).

4 (B) Paragraph (3) of section 245(a) of
5 such Code is amended—

6 (i) by striking “post-1986” in sub-
7 paragraph (A), and

8 (ii) by striking “total post-1986” in
9 subparagraph (B).

10 (C) Paragraph (4) of section 245(a) of
11 such Code is amended to read as follows:

12 “(4) **UNDISTRIBUTED EARNINGS.**—The term
13 ‘undistributed earnings’ means the amount of the
14 earnings and profits of the controlled foreign cor-
15 poration (computed in accordance with sections
16 964(a) and 986)—

17 “(A) as of the close of the taxable year of
18 the controlled foreign corporation in which the
19 dividend is distributed, and

20 “(B) without diminution by reason of divi-
21 dends distributed during such taxable year.”.

22 (D) Paragraph (5) of section 245(a) of
23 such Code is amended—

1 (i) by striking “post-1986” both
2 places it appears in the matter preceding
3 subparagraph (A), and

4 (ii) by striking “POST-1986 UNDIS-
5 TRIBUTED” in the heading thereof and in-
6 serting “UNDISTRIBUTED”.

7 (E) Paragraph (6) of section 245(a) of
8 such Code is amended—

9 (i) by striking “beginning after De-
10 cember 31, 1986” and inserting “which is
11 after the first taxable year of such corpora-
12 tion”, and

13 (ii) by striking “post-1986” both
14 places it appears.

15 (F) Paragraph (2) of section 6601(b) of
16 such Code is amended—

17 (i) by striking “section 6156(a)” in
18 the matter preceding subparagraph (A)
19 and inserting “section 965(c)(1) or
20 6156(a)”, and

21 (ii) by striking “section 6156(b)” in
22 subparagraph (A) and inserting “section
23 965(c)(2) or 6156(b), as the case may be”.

24 (G) The table of sections for subpart F of
25 part III of subchapter N of chapter 1 of such

1 Code is amended by striking the item relating
 2 to section 965 and inserting the following:

“Sec. 965. Inclusion of previously deferred foreign income.”.

3 (3) EFFECTIVE DATE.—The amendments made
 4 by this subsection shall apply to taxable years begin-
 5 ning after December 31, 2017.

6 **SEC. 3. MODIFICATIONS OF FOREIGN TAX CREDIT RULES**

7 **APPLICABLE TO LARGE INTEGRATED OIL**
 8 **COMPANIES WHICH ARE DUAL CAPACITY**
 9 **TAXPAYERS.**

10 (a) IN GENERAL.—Section 901 of the Internal Rev-
 11 enue Code of 1986 is amended by redesignating subsection
 12 (n) as subsection (o) and by inserting after subsection (m)
 13 the following new subsection:

14 “(n) SPECIAL RULES RELATING TO LARGE INTE-
 15 GRATED OIL COMPANIES WHICH ARE DUAL CAPACITY
 16 TAXPAYERS.—

17 “(1) GENERAL RULE.—Notwithstanding any
 18 other provision of this chapter, any amount paid or
 19 accrued by a dual capacity taxpayer which is a large
 20 integrated oil company to a foreign country or pos-
 21 session of the United States for any period shall not
 22 be considered a tax—

23 “(A) if, for such period, the foreign coun-
 24 try or possession does not impose a generally
 25 applicable income tax, or

“(B) to the extent such amount exceeds the amount (determined in accordance with regulations) which—

“(i) is paid by such dual capacity taxpayer pursuant to the generally applicable income tax imposed by the country or possession, or

“(ii) would be paid if the generally applicable income tax imposed by the country or possession were applicable to such dual capacity taxpayer.

Nothing in this paragraph shall be construed to imply the proper treatment of any such amount not in excess of the amount determined under subparagraph (B).

“(2) DUAL CAPACITY TAXPAYER.—For purposes of this subsection, the term ‘dual capacity taxpayer’ means, with respect to any foreign country or possession of the United States, a person who—

“(A) is subject to a levy of such country or possession, and

“(B) receives (or will receive) directly or indirectly a specific economic benefit (as determined in accordance with regulations) from such country or possession.

1 “(3) GENERALLY APPLICABLE INCOME TAX.—

2 For purposes of this subsection—

3 “(A) IN GENERAL.—The term ‘generally
4 applicable income tax’ means an income tax (or
5 a series of income taxes) which is generally im-
6 posed under the laws of a foreign country or
7 possession on income derived from the conduct
8 of a trade or business within such country or
9 possession.

10 “(B) EXCEPTIONS.—Such term shall not
11 include a tax unless it has substantial applica-
12 tion, by its terms and in practice, to—

13 “(i) persons who are not dual capacity
14 taxpayers, and

15 “(ii) persons who are citizens or resi-
16 dents of the foreign country or possession.

17 “(4) LARGE INTEGRATED OIL COMPANY.—For
18 purposes of this subsection, the term ‘large inte-
19 grated oil company’ means, with respect to any tax-
20 able year, an integrated oil company (as defined in
21 section 291(b)(4)) which—

22 “(A) had gross receipts in excess of
23 \$1,000,000,000 for such taxable year, and

1 “(B) has an average daily worldwide pro-
 2 duction of crude oil of at least 500,000 barrels
 3 for such taxable year.”.

4 (b) EFFECTIVE DATE.—

5 (1) IN GENERAL.—The amendments made by
 6 this section shall apply to taxes paid or accrued in
 7 taxable years beginning after the date of the enact-
 8 ment of this Act.

9 (2) CONTRARY TREATY OBLIGATIONS
 10 UPHELD.—The amendments made by this section
 11 shall not apply to the extent contrary to any treaty
 12 obligation of the United States.

13 **SEC. 4. REINSTITUTION OF PER COUNTRY FOREIGN TAX**
 14 **CREDIT.**

15 (a) IN GENERAL.—Subsection (a) of section 904 of
 16 the Internal Revenue Code of 1986 is amended to read
 17 as follows:

18 “(a) LIMITATION.—The amount of the credit in re-
 19 spect of the tax paid or accrued to any foreign country
 20 or possession of the United States shall not exceed the
 21 same proportion of the tax against which such credit is
 22 taken which the taxpayer’s taxable income from sources
 23 within such country or possession (but not in excess of
 24 the taxpayer’s entire taxable income) bears to such tax-
 25 payer’s entire taxable income for the same taxable year.”.

1 (b) EFFECTIVE DATE.—The amendment made by
 2 this section shall apply to taxable years beginning after
 3 December 31, 2017.

4 **SEC. 5. TREATMENT OF FOREIGN CORPORATIONS MAN-**
 5 **AGED AND CONTROLLED IN THE UNITED**
 6 **STATES AS DOMESTIC CORPORATIONS.**

7 (a) IN GENERAL.—Section 7701 of the Internal Rev-
 8 enue Code of 1986 is amended by redesignating subsection
 9 (p) as subsection (q) and by inserting after subsection (o)
 10 the following new subsection:

11 “(p) CERTAIN CORPORATIONS MANAGED AND CON-
 12 TROLLED IN THE UNITED STATES TREATED AS DOMES-
 13 TIC FOR INCOME TAX.—

14 “(1) IN GENERAL.—Notwithstanding subsection
 15 (a)(4), in the case of a corporation described in
 16 paragraph (2) if—

17 “(A) the corporation would not otherwise
 18 be treated as a domestic corporation for pur-
 19 poses of this title, but

20 “(B) the management and control of the
 21 corporation occurs, directly or indirectly, pri-
 22 marily within the United States,
 23 then, solely for purposes of chapter 1 (and any other
 24 provision of this title relating to chapter 1), the cor-
 25 poration shall be treated as a domestic corporation.

1 “(2) CORPORATION DESCRIBED.—

2 “(A) IN GENERAL.—A corporation is de-
3 scribed in this paragraph if—

4 “(i) the stock of such corporation is
5 regularly traded on an established securi-
6 ties market, or

7 “(ii) the aggregate gross assets of
8 such corporation (or any predecessor there-
9 of), including assets under management
10 for investors, whether held directly or indi-
11 rectly, at any time during the taxable year
12 or any preceding taxable year is
13 \$50,000,000 or more.

14 “(B) GENERAL EXCEPTION.—A corpora-
15 tion shall not be treated as described in this
16 paragraph if—

17 “(i) such corporation was treated as a
18 corporation described in this paragraph in
19 a preceding taxable year,

20 “(ii) such corporation—

21 “(I) is not regularly traded on an
22 established securities market, and

23 “(II) has, and is reasonably ex-
24 pected to continue to have, aggregate
25 gross assets (including assets under

1 management for investors, whether
2 held directly or indirectly) of less than
3 \$50,000,000, and

4 “(iii) the Secretary grants a waiver to
5 such corporation under this subparagraph.

6 “(3) MANAGEMENT AND CONTROL.—

7 “(A) IN GENERAL.—The Secretary shall
8 prescribe regulations for purposes of deter-
9 mining cases in which the management and
10 control of a corporation is to be treated as oc-
11 ccurring primarily within the United States.

12 “(B) EXECUTIVE OFFICERS AND SENIOR
13 MANAGEMENT.—Such regulations shall provide
14 that—

15 “(i) the management and control of a
16 corporation shall be treated as occurring
17 primarily within the United States if sub-
18 stantially all of the executive officers and
19 senior management of the corporation who
20 exercise day-to-day responsibility for mak-
21 ing decisions involving strategic, financial,
22 and operational policies of the corporation
23 are located primarily within the United
24 States, and

1 “(ii) individuals who are not executive
2 officers and senior management of the cor-
3 poration (including individuals who are of-
4 ficers or employees of other corporations in
5 the same chain of corporations as the cor-
6 poration) shall be treated as executive offi-
7 cers and senior management if such indi-
8 viduals exercise the day-to-day responsibil-
9 ities of the corporation described in clause
10 (i).

11 “(C) CORPORATIONS PRIMARILY HOLDING
12 INVESTMENT ASSETS.—Such regulations shall
13 also provide that the management and control
14 of a corporation shall be treated as occurring
15 primarily within the United States if—

16 “(i) the assets of such corporation (di-
17 rectly or indirectly) consist primarily of as-
18 sets being managed on behalf of investors,
19 and

20 “(ii) decisions about how to invest the
21 assets are made in the United States.”.

22 (b) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to taxable years beginning on or
24 after the date which is 2 years after the date of the enact-
25 ment of this Act.

1 **SEC. 6. RESTRICTIONS ON DEDUCTION FOR INTEREST EX-**
 2 **PENSE OF MEMBERS OF FINANCIAL REPORT-**
 3 **ING GROUPS WITH EXCESS DOMESTIC IN-**
 4 **DEBTEDNESS.**

5 (a) IN GENERAL.—Section 163 of the Internal Rev-
 6 enue Code of 1986 is amended by redesignating subsection
 7 (n) as subsection (o) and by inserting after subsection (m)
 8 the following new subsection:

9 “(n) RESTRICTION ON DEDUCTION FOR INTEREST
 10 EXPENSE OF MEMBERS OF FINANCIAL REPORTING
 11 GROUPS WITH EXCESS DOMESTIC INDEBTEDNESS.—

12 “(1) IN GENERAL.—In the case of any corpora-
 13 tion which is a member of an applicable financial re-
 14 porting group the common parent of which is a for-
 15 eign corporation, the deduction allowed under this
 16 chapter for interest paid or accrued by the corpora-
 17 tion during the taxable year shall not exceed the ap-
 18 plicable limitation for the taxable year.

19 “(2) CARRYFORWARD.—Any amount disallowed
 20 under paragraph (1) for any taxable year shall be
 21 treated as interest paid or accrued in the succeeding
 22 taxable year.

23 “(3) APPLICABLE LIMITATION.—For purposes
 24 of this subsection—

“(A) IN GENERAL.—The applicable limitation with respect to a taxpayer for any taxable year is the sum of—

“(i) the greater of—

“(I) the taxpayer’s allocable share of the applicable financial reporting group’s net interest expense for the taxable year, or

“(II) 10 percent of the taxpayer’s adjusted taxable income for the taxable year, plus

“(ii) the excess limitation carryforwards to the taxable year from any preceding taxable year.

“(B) LIMITATION NOT LESS THAN INCLUDIBLE INTEREST.—The applicable limitation under subparagraph (A) for any taxable year shall not be less than the amount of interest includible in the gross income of the taxpayer for the taxable year.

“(C) EXCESS LIMITATION CARRYFORWARD.—If the applicable limitation of a taxpayer for any taxable year (determined without regard to carryforwards under subparagraph (A)(ii)) exceeds the interest paid or ac-

1 crued by the taxpayer during the taxable year,
 2 such excess shall be an excess limitation
 3 carryforward to the 1st succeeding taxable year
 4 and the 2nd and 3rd succeeding taxable years
 5 to the extent not previously taken into account
 6 under this paragraph.

7 “(4) ALLOCABLE SHARE OF NET INTEREST EX-
 8 PENSE.—For purposes of this subsection—

9 “(A) IN GENERAL.—A taxpayer’s allocable
 10 share of an applicable financial reporting
 11 group’s net interest expense for any taxable
 12 year shall be the amount (not less than zero)
 13 which bears the same ratio to such net interest
 14 expense as—

15 “(i) the net earnings of the taxpayer,
 16 bears to

17 “(ii) the aggregate net earnings of all
 18 members of the applicable financial report-
 19 ing group.

20 “(B) NET EARNINGS.—The term ‘net
 21 earnings’ means, with respect to any taxpayer,
 22 the earnings of the taxpayer—

23 “(i) computed without regard to any
 24 reduction allowable for—

25 “(I) net interest expense,

1 “(II) taxes, or

2 “(III) depreciation, amortization,
3 or depletion, and

4 “(ii) computed with such other adjust-
5 ments as the Secretary may by regulations
6 prescribe.

7 “(C) BURDEN ON TAXPAYER.—If a tax-
8 payer elects not to compute its allocable share,
9 or fails to establish to the satisfaction of the
10 Secretary the amount of its allocable share, for
11 any taxable year, the allocable share shall be
12 zero.

13 “(5) NET INTEREST EXPENSE AND NET EARN-
14 INGS DETERMINATIONS.—For purposes of this sub-
15 section—

16 “(A) NET INTEREST EXPENSE.—Any de-
17 termination of net interest expense for any tax-
18 able year shall be made—

19 “(i) on the basis of the applicable fi-
20 nancial statement of the applicable finan-
21 cial reporting group for the last financial
22 reporting year ending with or within the
23 taxable year, and

24 “(ii) under United States tax prin-
25 ciples.

1 “(B) NET EARNINGS.—Any determination
2 of net earnings for any taxable year shall be
3 made on the basis of the applicable financial
4 statement of the applicable financial reporting
5 group for the last financial reporting year end-
6 ing with or within the taxable year.

7 “(C) APPLICABLE FINANCIAL STATE-
8 MENT.—The term ‘applicable financial state-
9 ment’ means a statement for financial reporting
10 purposes which is made on the basis of—

11 “(i) generally accepted accounting
12 principles,

13 “(ii) international financial reporting
14 standards, or

15 “(iii) any other method specified by
16 the Secretary in regulations.

17 A statement under clause (ii) or (iii) may be
18 used as an applicable financial statement by a
19 group only if there is no statement of the group
20 under any preceding clause.

21 “(6) APPLICABLE FINANCIAL REPORTING
22 GROUP.—For purposes of this subsection—

23 “(A) IN GENERAL.—The term ‘applicable
24 financial reporting group’ means, with respect
25 to any corporation, a group of which such cor-

poration is a member and which files an applicable financial statement.

“(B) EXCEPTION FOR GROUPS WITH MINIMAL DOMESTIC NET INTEREST EXPENSE.—Such term shall not include a group if the aggregate net interest expense for which a deduction is allowable to all members of the group under this chapter (determined without regard to this subsection or any other limitation on deductibility of interest under this chapter) is less than \$5,000,000.

“(C) EXCEPTION FOR CERTAIN FINANCIAL ENTITIES.—A corporation which is described in section 864(f)(4)(B), or is treated as described in section 864(f)(4)(B) by reason of paragraph (4)(C) or (5)(A) of section 864(f) (without regard to whether an election is made under such paragraph (5)(A)), shall not be treated as a member of an applicable financial reporting group of which it is otherwise a member and this subsection shall not apply to such corporation.

“(7) OTHER DEFINITIONS AND RULES.—For purposes of this subsection—

1 “(A) ADJUSTED TAXABLE INCOME.—The
2 term ‘adjusted taxable income’ has the meaning
3 given such term by subsection (j)(6)(A).

4 “(B) NET INTEREST EXPENSE.—The term
5 ‘net interest expense’ has the meaning given
6 such term by subsection (j)(6)(B).

7 “(C) TREATMENT OF AFFILIATED
8 GROUP.—All members of the same affiliated
9 group (within the meaning of section 1504(a))
10 shall be treated as 1 taxpayer.

11 “(8) REGULATIONS.—The Secretary shall pre-
12 scribe such regulations as may be necessary to carry
13 out the purposes of this section, including regula-
14 tions providing—

15 “(A) for the coordination of the application
16 of this subsection and other provisions of this
17 chapter relating to the deductibility of interest,

18 “(B) for the waiver of certain adjustments
19 required under United States tax principles in
20 appropriate cases for purposes of applying this
21 subsection,

22 “(C) for the determination of which finan-
23 cial institutions are eligible for the exception
24 from membership in an applicable financial re-
25 porting group under paragraph (6)(C) and the

1 application of this subsection to the other mem-
 2 bers of the group which are not so excepted,
 3 and

4 “(D) for the application of this subsection
 5 in the case of pass thru entities and for the
 6 treatment of pass thru entities as corporations
 7 in cases where necessary to prevent the avoid-
 8 ance of the purposes of this subsection.”.

9 (b) COORDINATION WITH LIMITATION ON RELATED
 10 PARTY INDEBTEDNESS.—Paragraph (2) of section 163(j)
 11 of the Internal Revenue Code of 1986 is amended by add-
 12 ing at the end the following new subparagraph:

13 “(D) COORDINATION WITH LIMITATION ON
 14 EXCESS DOMESTIC INDEBTEDNESS.—This sub-
 15 section shall not apply to any corporation for
 16 any taxable year to which subsection (n) applies
 17 to such corporation.”.

18 (c) EFFECTIVE DATE.—The amendments made by
 19 this section shall apply to taxable years beginning after
 20 December 31, 2017.

21 **SEC. 7. MODIFICATIONS TO RULES RELATING TO IN-**
 22 **VERTED CORPORATIONS.**

23 (a) IN GENERAL.—Subsection (b) of section 7874 of
 24 the Internal Revenue Code of 1986 is amended to read
 25 as follows:

1 “(b) INVERTED CORPORATIONS TREATED AS DO-
2 MESTIC CORPORATIONS.—

3 “(1) IN GENERAL.—Notwithstanding section
4 7701(a)(4), a foreign corporation shall be treated for
5 purposes of this title as a domestic corporation if—

6 “(A) such corporation would be a surro-
7 gate foreign corporation if subsection (a)(2)
8 were applied by substituting ‘80 percent’ for
9 ‘60 percent’, or

10 “(B) such corporation is an inverted do-
11 mestic corporation.

12 “(2) INVERTED DOMESTIC CORPORATION.—For
13 purposes of this subsection, a foreign corporation
14 shall be treated as an inverted domestic corporation
15 if, pursuant to a plan (or a series of related trans-
16 actions)—

17 “(A) the entity completes after May 8,
18 2014, the direct or indirect acquisition of—

19 “(i) substantially all of the properties
20 held directly or indirectly by a domestic
21 corporation, or

22 “(ii) substantially all of the assets of,
23 or substantially all of the properties consti-
24 tuting a trade or business of, a domestic
25 partnership, and

1 “(B) after the acquisition, more than 50
2 percent of the stock (by vote or value) of the
3 entity is held—

4 “(i) in the case of an acquisition with
5 respect to a domestic corporation, by
6 former shareholders of the domestic cor-
7 poration by reason of holding stock in the
8 domestic corporation, or

9 “(ii) in the case of an acquisition with
10 respect to a domestic partnership, by
11 former partners of the domestic partner-
12 ship by reason of holding a capital or prof-
13 its interest in the domestic partnership.

14 “(3) EXCEPTION FOR CORPORATIONS WITH
15 SUBSTANTIAL BUSINESS ACTIVITIES IN FOREIGN
16 COUNTRY OF ORGANIZATION.—A foreign corporation
17 described in paragraph (2) shall not be treated as an
18 inverted domestic corporation if after the acquisition
19 the expanded affiliated group which includes the en-
20 tity has substantial business activities in the foreign
21 country in which or under the law of which the enti-
22 ty is created or organized when compared to the
23 total business activities of such expanded affiliated
24 group. For purposes of subsection (a)(2)(B)(iii) and
25 the preceding sentence, the term ‘substantial busi-

ness activities’ shall have the meaning given such term under regulations in effect on May 8, 2014, except that the Secretary may issue regulations increasing the threshold percent in any of the tests under such regulations for determining if business activities constitute substantial business activities for purposes of this paragraph.”.

(b) CONFORMING AMENDMENTS.—

(1) Clause (i) of section 7874(a)(2)(B) of the Internal Revenue Code of 1986 is amended by striking “after March 4, 2003,” and inserting “after March 4, 2003, and before May 9, 2014,”.

(2) Subsection (c) of section 7874 of such Code is amended—

(A) in paragraph (2)—

(i) by striking “subsection (a)(2)(B)(ii)” and inserting “subsections (a)(2)(B)(ii) and (b)(2)(B)”, and

(ii) by inserting “or (b)(2)(A)” after “(a)(2)(B)(i)” in subparagraph (B),

(B) in paragraph (3), by inserting “or (b)(2)(B), as the case may be,” after “(a)(2)(B)(ii)”,

1 (C) in paragraph (5), by striking “sub-
2 section (a)(2)(B)(ii)” and inserting “sub-
3 sections (a)(2)(B)(ii) and (b)(2)(B)”, and

4 (D) in paragraph (6), by inserting “or in-
5 verted domestic corporation, as the case may
6 be,” after “surrogate foreign corporation”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years ending after May
9 8, 2014.

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