

115TH CONGRESS
1ST SESSION

H. R. 2057

To amend the Internal Revenue Code of 1986 to limit the interest deduction for excessive interest of members of financial reporting groups and to terminate the deferral of active income of controlled foreign corporations, and to amend the Securities Exchange Act of 1934 to require the disclosure of total corporate tax paid by a corporation in each annual report required to be filed under such Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 6, 2017

Mr. POCAN (for himself, Ms. NORTON, Mr. CONYERS, Ms. MOORE, Ms. LEE, Ms. SCHAKOWSKY, Mr. CICILLINE, and Mr. GRIJALVA) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to limit the interest deduction for excessive interest of members of financial reporting groups and to terminate the deferral of active income of controlled foreign corporations, and to amend the Securities Exchange Act of 1934 to require the disclosure of total corporate tax paid by a corporation in each annual report required to be filed under such Act, 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 “Tax Fairness and
5 Transparency Act”.

6 **SEC. 2. LIMITATION ON INTEREST DEDUCTION FOR EXCES-**
7 **SIVE INTEREST OF MEMBERS OF FINANCIAL**
8 **REPORTING GROUPS.**

9 (a) IN GENERAL.—Section 163 of the Internal Rev-
10 enue Code of 1986 is amended by redesignating subsection
11 (n) as subsection (o) and by inserting after subsection (m)
12 the following:

13 “(n) LIMITATION ON EXCESSIVE INTEREST OF MEM-
14 BERS OF FINANCIAL REPORTING GROUPS.—

15 “(1) LIMITATION.—

16 “(A) IN GENERAL.—If this subsection ap-
17 plies to any corporation for any taxable year, no
18 deduction shall be allowed under this chapter
19 for the taxable year for interest expense to the
20 extent that such expense exceeds the sum of—

21 “(i) the amount of interest on indebt-
22 edness of the corporation includible in the
23 corporation’s gross income for the taxable
24 year, plus

1 “(ii) the corporation’s proportionate
2 share of the financial reporting group’s net
3 interest expense for the taxable year com-
4 puted under United States income tax
5 principles.

6 “(B) PROPORTIONATE SHARE OF NET IN-
7 TEREST EXPENSE.—For purposes of subpara-
8 graph (A)(ii)—

9 “(i) IN GENERAL.—A corporation’s
10 proportionate share of the financial report-
11 ing group’s net interest expense means the
12 amount equal to the percentage of the
13 group’s net interest expense which bears
14 the same percentage as the corporation’s
15 earnings bears to the group’s earnings.

16 “(ii) EARNINGS.—For purposes of
17 clause (i), earnings shall be the sum of net
18 earnings plus net interest expense, taxes,
19 depreciation, and amortization.

20 “(iii) DETERMINATIONS RELATING TO
21 EARNINGS.—For purposes of clause (ii),
22 earnings, net interest expense, taxes, de-
23 preciation, and amortization with respect
24 to a financial reporting group shall be as
25 reflected on the financial reporting group’s

1 financial statements for the taxable year
2 ending in the taxable year of the corpora-
3 tion.

4 “(C) ALTERNATIVE DETERMINATION.—In
5 lieu of the limitation in subparagraph (A), if—

6 “(i) a corporation fails to substantiate
7 the corporation’s proportionate share of
8 the financial reporting group’s net interest
9 expense for a taxable year, or

10 “(ii) a corporation so elects,
11 no deduction shall be allowed under this chap-
12 ter for the taxable year for interest expense to
13 the extent that such expense exceeds 10 percent
14 of the corporation’s adjusted taxable income (as
15 defined under subsection (j)(6)(A)).

16 “(2) CORPORATIONS TO WHICH SUBSECTION
17 APPLIES.—

18 “(A) IN GENERAL.—This subsection shall
19 apply to any corporation for any taxable year if
20 the corporation is a member of a financial re-
21 porting group.

22 “(B) CERTAIN CORPORATIONS NOT IN-
23 CLUDED.—This subsection shall not apply to
24 any corporation which—

1 “(i) is a corporation predominantly
2 engaged in the active conduct of a bank-
3 ing, financing, or similar business, or

4 “(ii) has less than \$5,000,000 of net
5 interest expense for the taxable year.

6 “(C) FINANCIAL REPORTING GROUP.—For
7 purposes of subparagraph (A), the term ‘finan-
8 cial reporting group’ means a group that pre-
9 pares consolidated financial statements in ac-
10 cordance with United States generally accepted
11 accounting principles, international financial re-
12 porting standards, or other method authorized
13 by the Secretary of the Treasury under regula-
14 tions. Such term shall not include any corpora-
15 tion described in subparagraph (B)(i).

16 “(D) SUBGROUPS.—For purposes of this
17 subsection, all members of an expanded affili-
18 ated group (as defined in section 7874(e)(1))
19 shall be treated as 1 corporation.

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

23 “(4) CARRYFORWARD.—

24 “(A) DISALLOWED INTEREST.—Any
25 amount disallowed under subparagraph (A) or

1 (C) for any taxable year shall be treated as an
2 interest expense in the next taxable year, and
3 such amount shall not be taken into account for
4 purposes of applying subsection (j)(2)(A)(ii) for
5 such taxable year.

6 “(B) EXCESS LIMITATION.—The excess (if
7 any) of the sum determined under paragraph
8 (1)(A) (i) and (ii) for a taxable year over the
9 amount of interest expense deducted under this
10 subsection for the taxable year shall be added
11 to the limitation determined under paragraph
12 (1) for the next taxable year (determined with-
13 out regard to this subparagraph). No excess
14 limitation may be carried to more than 3 tax-
15 able years.

16 “(5) ELECTION.—The election under paragraph
17 (1)(C)(ii) shall be made at such time and in such
18 manner as the Secretary may prescribe by regula-
19 tions.

20 “(6) REGULATIONS.—The Secretary shall pre-
21 scribe such regulations and other guidance as may
22 be necessary to carry out the purposes of this sub-
23 section, including regulations to—

24 “(A) coordinate the application of this sub-
25 section with other interest deductibility rules,

1 “(B) define financial services entities,

2 “(C) permit financial reporting groups to
3 compute the group’s non-United States net in-
4 terest expense without making certain adjust-
5 ments required under United States income tax
6 principles,

7 “(D) provide for the treatment of pass-
8 through entities, and

9 “(E) allow the use of financial statements
10 prepared under other countries’ generally ac-
11 cepted accounting principles in appropriate cir-
12 cumstances where a financial reporting group
13 does not prepare financial statements under
14 United States generally accepted accounting
15 principles or international financial reporting
16 standards.”.

17 (b) COORDINATION WITH 163(j).—Section
18 163(j)(2)(A) of the Internal Revenue Code of 1986 is
19 amended by adding at the end the following flush sen-
20 tence: “This subsection shall not apply to any corporation
21 which is a member of a financial reporting group to which
22 subsection (n) applies.”.

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

1 **SEC. 3. TERMINATION OF DEFERRAL OF ACTIVE INCOME**
2 **OF CONTROLLED FOREIGN CORPORATIONS.**

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

6 “(e) SPECIAL APPLICATION OF SUBPART.—

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

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

16 (b) EFFECTIVE DATE.—The amendment made by
17 subsection (a) shall apply to taxable years beginning after
18 December 31, 2017.

19 **SEC. 4. REQUIREMENT TO DISCLOSE TOTAL CORPORATE**
20 **TAXES PAID.**

21 (a) IN GENERAL.—Section 13 of the Securities Ex-
22 change Act of 1934 (15 U.S.C. 78m) is amended by add-
23 ing at the end the following new subsection:

24 “(s) DISCLOSURE OF TOTAL CORPORATE TAXES
25 PAID.—

1 “(1) ISSUER DISCLOSURE REQUIREMENT.—
2 Each issuer required to file an annual or quarterly
3 report under subsection (a) shall disclose in that re-
4 port—

5 “(A) the total pre-tax profit of the issuer
6 during the period covered by the report;

7 “(B) the total amount paid by the issuer
8 in State taxes during the period covered by the
9 report;

10 “(C) the total amount paid by the issuer in
11 Federal taxes during the period covered by the
12 report; and

13 “(D) the total amount paid by the issuer
14 in foreign taxes during the period covered by
15 the report.

16 “(2) DISCLOSURE OF COUNTRY-BY-COUNTRY
17 REPORTING INFORMATION.—Each issuer required to
18 file an annual or quarterly report under subsection
19 (a) shall disclose in that report, for each of its sub-
20 sidiaries and aggregated on a country-by-country
21 basis—

22 “(A) revenues generated from transactions
23 with other constituent entities;

24 “(B) revenues not generated from trans-
25 actions with other constituent entities;

1 “(C) profit or loss before income tax;

2 “(D) total income tax paid on a cash basis
3 to all tax jurisdictions, and any taxes withheld
4 on payments received by the constituent enti-
5 ties;

6 “(E) total accrued tax expense recorded on
7 taxable profits or losses, reflecting only oper-
8 ations in the relevant annual period and exclud-
9 ing deferred taxes or provisions for uncertain
10 tax liabilities;

11 “(F) stated capital, except that the stated
12 capital of a permanent establishment must be
13 reported in the tax jurisdiction of residence of
14 the legal entity of which it is a permanent es-
15 tablishment unless there is a defined capital re-
16 quirement in the permanent establishment tax
17 jurisdiction for regulatory purposes;

18 “(G) total accumulated earnings, except
19 that accumulated earnings of a permanent es-
20 tablishment must be reported by the legal entity
21 of which it is a permanent establishment;

22 “(H) total number of employees on a full-
23 time equivalent basis; and

24 “(I) net book value of tangible assets,
25 which, for purposes of this section, does not in-

1 clude cash or cash equivalents, intangibles, or
2 financial assets.

3 “(3) AVAILABILITY OF INFORMATION.—The
4 Commission shall make the information filed with
5 the Commission pursuant to this subsection publicly
6 available through the Commission website in a man-
7 ner that is searchable, sortable, and downloadable.”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall apply to disclosures made after the date
10 of the enactment of this Act.

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