

115TH CONGRESS
1ST SESSION

S. _____

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

IN THE SENATE OF THE UNITED STATES

Mr. SANDERS introduced the following bill; which was read twice and referred to the Committee on _____

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 2 or
18 more (but not exceeding 8) 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 subpart F income

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

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

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

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

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

18 “(D) any similar circumstance,

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

23 “(4) PRORATION OF DEFICIENCY TO INSTALL-
24 MENTS.—If an election is made under paragraph (1)
25 to pay the net tax liability under this section in in-

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

14 “(5) RULES RELATING TO INTEREST.—

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

23 “(B) SPECIAL RULES FOR DEFICI-
24 CIENCIES.—

1 “(i) INTEREST PAYABLE FOR ENTIRE
2 PERIOD.—Subparagraph (A) shall not
3 apply to any deficiency prorated to an in-
4 stallment under paragraph (4).

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

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

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

1 951(a)(1) and shall be made in such manner as the
2 Secretary may provide.

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

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

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

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

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

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

22 “(d) REGULATIONS.—The Secretary shall promul-
23 gate such regulations as necessary to carry out the pur-
24 poses of this section, including regulations for the applica-

1 tion of this section to pass-through entities all or part of
2 which are owned by 1 or more domestic corporations.”.

3 (2) CONFORMING AMENDMENTS.—

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

7 (B) Paragraph (3) of section 245(a) of
8 such Code is amended—

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

11 (ii) by striking “total post-1986” in
12 subparagraph (B).

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

15 “(4) UNDISTRIBUTED EARNINGS.—The term
16 ‘undistributed earnings’ means the amount of the
17 earnings and profits of the controlled foreign cor-
18 poration (computed in accordance with sections
19 964(a) and 986)—

20 “(A) as of the close of the taxable year of
21 the controlled foreign corporation in which the
22 dividend is distributed, and

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

1 (D) Paragraph (5) of section 245(a) of
2 such Code is amended—

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

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

9 (E) Paragraph (6) of section 245(a) of
10 such Code is amended—

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

15 (ii) by striking “post-1986” both
16 places it appears.

17 (F) Paragraph (2) of section 6601(b) of
18 such Code is amended—

19 (i) by striking “section 6156(a)” in
20 the matter preceding subparagraph (A)
21 and inserting “section 965(c)(1) or
22 6156(a)”, and

23 (ii) by striking “section 6156(b)” in
24 subparagraph (A) and inserting “section
25 965(c)(2) or 6156(b), as the case may be”.

1 (G) The table of section for subpart F of
2 part III of subchapter N of chapter 1 of such
3 Code is amended by striking the item relating
4 to section 965 and inserting the following:

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

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

8 **SEC. 3. MODIFICATIONS OF FOREIGN TAX CREDIT RULES**
9 **APPLICABLE TO LARGE INTEGRATED OIL**
10 **COMPANIES WHICH ARE DUAL CAPACITY**
11 **TAXPAYERS.**

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

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

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

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

4 “(B) to the extent such amount exceeds
5 the amount (determined in accordance with reg-
6 ulations) which—

7 “(i) is paid by such dual capacity tax-
8 payer pursuant to the generally applicable
9 income tax imposed by the country or pos-
10 session, or

11 “(ii) would be paid if the generally ap-
12 plicable income tax imposed by the country
13 or possession were applicable to such dual
14 capacity taxpayer.

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

19 “(2) DUAL CAPACITY TAXPAYER.—For pur-
20 poses of this subsection, the term ‘dual capacity tax-
21 payer’ means, with respect to any foreign country or
22 possession of the United States, a person who—

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

1 “(B) receives (or will receive) directly or
2 indirectly a specific economic benefit (as deter-
3 mined in accordance with regulations) from
4 such country or possession.

5 “(3) GENERALLY APPLICABLE INCOME TAX.—
6 For purposes of this subsection—

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

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

17 “(i) persons who are not dual capacity
18 taxpayers, and

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

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

1 “(A) had gross receipts in excess of
2 \$1,000,000,000 for such taxable year, and

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

6 (b) EFFECTIVE DATE.—

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

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

15 **SEC. 4. REINSTITUTION OF PER COUNTRY FOREIGN TAX**
16 **CREDIT.**

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

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

1 the taxpayer's entire taxable income) bears to such tax-
2 payer's entire taxable income for the same taxable year.”.

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

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

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

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

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

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

22 “(B) the management and control of the
23 corporation occurs, directly or indirectly, pri-
24 marily within the United States,

1 then, solely for purposes of chapter 1 (and any other
2 provision of this title relating to chapter 1), the cor-
3 poration shall be treated as a domestic corporation.

4 “(2) CORPORATION DESCRIBED.—

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

7 “(i) the stock of such corporation is
8 regularly traded on an established securi-
9 ties market, or

10 “(ii) the aggregate gross assets of
11 such corporation (or any predecessor there-
12 of), including assets under management
13 for investors, whether held directly or indi-
14 rectly, at any time during the taxable year
15 or any preceding taxable year is
16 \$50,000,000 or more.

17 “(B) GENERAL EXCEPTION.—A corpora-
18 tion shall not be treated as described in this
19 paragraph if—

20 “(i) such corporation was treated as a
21 corporation described in this paragraph in
22 a preceding taxable year,

23 “(ii) such corporation—

24 “(I) is not regularly traded on an
25 established securities market, and

1 “(II) has, and is reasonably ex-
2 pected to continue to have, aggregate
3 gross assets (including assets under
4 management for investors, whether
5 held directly or indirectly) of less than
6 \$50,000,000, and

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

9 “(3) MANAGEMENT AND CONTROL.—

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

15 “(B) EXECUTIVE OFFICERS AND SENIOR
16 MANAGEMENT.—Such regulations shall provide
17 that—

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

1 are located primarily within the United
2 States, and

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

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

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

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

24 (b) EFFECTIVE DATE.—The amendments made by
25 this section shall apply to taxable years beginning on or

1 after the date which is 2 years after the date of the enact-
2 ment of this Act.

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

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

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

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

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

1 “(3) APPLICABLE LIMITATION.—For purposes
2 of this subsection—

3 “(A) IN GENERAL.—The applicable limita-
4 tion with respect to a taxpayer for any taxable
5 year is the sum of—

6 “(i) the greater of—

7 “(I) the taxpayer’s allocable
8 share of the applicable financial re-
9 porting group’s net interest expense
10 for the taxable year, or

11 “(II) 10 percent of the taxpayer’s
12 adjusted taxable income for the tax-
13 able year, plus

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

17 “(B) LIMITATION NOT LESS THAN IN-
18 CLUDIBLE INTEREST.—The applicable limita-
19 tion under subparagraph (A) for any taxable
20 year shall not be less than the amount of inter-
21 est includible in the gross income of the tax-
22 payer for the taxable year.

23 “(C) EXCESS LIMITATION
24 CARRYFORWARD.—If the applicable limitation
25 of a taxpayer for any taxable year (determined

1 without regard to carryforwards under subpara-
2 graph (A)(ii)) exceeds the interest paid or ac-
3 crued by the taxpayer during the taxable year,
4 such excess shall be an excess limitation
5 carryforward to the 1st succeeding taxable year
6 and the 2nd and 3rd succeeding taxable years
7 to the extent not previously taken into account
8 under this paragraph.

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

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

17 “(i) the net earnings of the taxpayer,
18 bears to

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

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

1 “(i) computed without regard to any
2 reduction allowable for—

3 “(I) net interest expense,

4 “(II) taxes, or

5 “(III) depreciation, amortization,
6 or depletion, and

7 “(ii) computed with such other adjust-
8 ments as the Secretary may by regulations
9 prescribe.

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

16 “(5) NET INTEREST EXPENSE AND NET EARN-
17 INGS DETERMINATIONS.—For purposes of this sub-
18 section—

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

22 “(i) on the basis of the applicable fi-
23 nancial statement of the applicable finan-
24 cial reporting group for the last financial

1 reporting year ending with or within the
2 taxable year, and

3 “(ii) under United States tax prin-
4 ciples.

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

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

15 “(i) generally accepted accounting
16 principles,

17 “(ii) international financial reporting
18 standards, or

19 “(iii) any other method specified by
20 the Secretary in regulations.

21 A statement under clause (ii) or (iii) may be
22 used as an applicable financial statement by a
23 group only if there is no statement of the group
24 under any preceding clause.

1 “(6) APPLICABLE FINANCIAL REPORTING
2 GROUP.—For purposes of this subsection—

3 “(A) IN GENERAL.—The term ‘applicable
4 financial reporting group’ means, with respect
5 to any corporation, a group of which such cor-
6 poration is a member and which files an appli-
7 cable financial statement.

8 “(B) EXCEPTION FOR GROUPS WITH MINI-
9 MAL DOMESTIC NET INTEREST EXPENSE.—
10 Such term shall not include a group if the ag-
11 gregate net interest expense for which a deduc-
12 tion is allowable to all members of the group
13 under this chapter (determined without regard
14 to this subsection or any other limitation on de-
15 ductibility of interest under this chapter) is less
16 than \$5,000,000.

17 “(C) EXCEPTION FOR CERTAIN FINANCIAL
18 ENTITIES.—A corporation which is described in
19 section 864(f)(4)(B), or is treated as described
20 in section 864(f)(4)(B) by reason of paragraph
21 (4)(C) or (5)(A) of section 864(f) (without re-
22 gard to whether an election is made under such
23 paragraph (5)(A)), shall not be treated as a
24 member of an applicable financial reporting
25 group of which it is otherwise a member and

1 this subsection shall not apply to such corpora-
2 tion.

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

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

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

11 “(C) TREATMENT OF AFFILIATED
12 GROUP.—All members of the same affiliated
13 group (within the meaning of section 1504(a))
14 shall be treated as 1 taxpayer.

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

19 “(A) for the coordination of the application
20 of this subsection and other provisions of this
21 chapter relating to the deductibility of interest,

22 “(B) for the waiver of certain adjustments
23 required under United States tax principles in
24 appropriate cases for purposes of applying this
25 subsection,

1 “(C) for the determination of which finan-
2 cial institutions are eligible for the exception
3 from membership in an applicable financial re-
4 porting group under paragraph (6)(C) and the
5 application of this subsection to the other mem-
6 bers of the group which are not so excepted,
7 and

8 “(D) for the application of this subsection
9 in the case of pass thru entities and for the
10 treatment of pass thru entities as corporations
11 in cases where necessary to prevent the avoid-
12 ance of the purposes of this subsection.”.

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

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

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

1 **SEC. 7. MODIFICATIONS TO RULES RELATING TO IN-**
2 **VERTED CORPORATIONS.**

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

6 “(b) INVERTED CORPORATIONS TREATED AS DO-
7 MESTIC CORPORATIONS.—

8 “(1) IN GENERAL.—Notwithstanding section
9 7701(a)(4), a foreign corporation shall be treated for
10 purposes of this title as a domestic corporation if—

11 “(A) such corporation would be a surro-
12 gate foreign corporation if subsection (a)(2)
13 were applied by substituting ‘80 percent’ for
14 ‘60 percent’, or

15 “(B) such corporation is an inverted do-
16 mestic corporation.

17 “(2) INVERTED DOMESTIC CORPORATION.—For
18 purposes of this subsection, a foreign corporation
19 shall be treated as an inverted domestic corporation
20 if, pursuant to a plan (or a series of related trans-
21 actions)—

22 “(A) the entity completes after May 8,
23 2014, the direct or indirect acquisition of—

24 “(i) substantially all of the properties
25 held directly or indirectly by a domestic
26 corporation, or

1 “(ii) substantially all of the assets of,
2 or substantially all of the properties consti-
3 tuting a trade or business of, a domestic
4 partnership, and

5 “(B) after the acquisition, more than 50
6 percent of the stock (by vote or value) of the
7 entity is held—

8 “(i) in the case of an acquisition with
9 respect to a domestic corporation, by
10 former shareholders of the domestic cor-
11 poration by reason of holding stock in the
12 domestic corporation, or

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

18 “(3) EXCEPTION FOR CORPORATIONS WITH
19 SUBSTANTIAL BUSINESS ACTIVITIES IN FOREIGN
20 COUNTRY OF ORGANIZATION.—A foreign corporation
21 described in paragraph (2) shall not be treated as an
22 inverted domestic corporation if after the acquisition
23 the expanded affiliated group which includes the en-
24 tity has substantial business activities in the foreign
25 country in which or under the law of which the enti-

1 ty is created or organized when compared to the
2 total business activities of such expanded affiliated
3 group. For purposes of subsection (a)(2)(B)(iii) and
4 the preceding sentence, the term ‘substantial busi-
5 ness activities’ shall have the meaning given such
6 term under regulations in effect on May 8, 2014, ex-
7 cept that the Secretary may issue regulations in-
8 creasing the threshold percent in any of the tests
9 under such regulations for determining if business
10 activities constitute substantial business activities for
11 purposes of this paragraph.”.

12 (b) CONFORMING AMENDMENTS.—

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

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

19 (A) in paragraph (2)—

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

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

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

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

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

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to taxable years ending after May
12 8, 2014.