

117TH CONGRESS
1ST SESSION

H. R. 1785

To amend the Internal Revenue Code of 1986 to provide for current year inclusion of net CFC tested income, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 11, 2021

Mr. DOGGETT (for himself, Ms. BARRAGÁN, Mrs. BEATTY, Mr. BLUMENAUER, Ms. BONAMICI, Mr. BRENDAN F. BOYLE of Pennsylvania, Mrs. BUSTOS, Ms. CHU, Mr. CICILLINE, Mr. CLEAVER, Mr. COHEN, Mr. COOPER, Mr. COURTNEY, Mr. CRIST, Mr. CROW, Mr. DANNY K. DAVIS of Illinois, Mr. DEFAZIO, Ms. DELAURO, Mr. DESAULNIER, Mr. DEUTCH, Mrs. DINGELL, Mr. MICHAEL F. DOYLE of Pennsylvania, Ms. ESHOO, Mr. ESPAILLAT, Mr. EVANS, Mr. FOSTER, Mr. GALLEGO, Mr. GARAMENDI, Mr. GARCÍA of Illinois, Mr. GOMEZ, Mr. GRIJALVA, Mr. HASTINGS, Mrs. HAYES, Mr. HIGGINS of New York, Mr. HUFFMAN, Ms. JACKSON LEE, Ms. JAYAPAL, Mr. JEFFRIES, Ms. JOHNSON of Texas, Mr. JOHNSON of Georgia, Ms. KAPTUR, Ms. KELLY of Illinois, Mr. KHANNA, Mr. KIM of New Jersey, Mrs. KIRKPATRICK, Mr. LANGEVIN, Mr. LAMB, Mrs. LAWRENCE, Ms. LEE of California, Mr. LEVIN of Michigan, Mr. LOWENTHAL, Mrs. LURIA, Mr. LYNCH, Mrs. CAROLYN B. MALONEY of New York, Ms. MCCOLLUM, Mr. MCGOVERN, Mr. MRVAN, Mr. MEEKS, Ms. MENG, Mr. JONES, Mr. MOULTON, Mr. MFUME, Mr. NADLER, Mrs. NAPOLITANO, Mr. NEGUSE, Mr. NORCROSS, Ms. NORTON, Ms. OMAR, Mr. PALLONE, Mr. PANETTA, Mr. PAPPAS, Mr. PERLMUTTER, Ms. PINGREE, Mr. POCAN, Ms. PORTER, Ms. PRESSLEY, Mr. RASKIN, Ms. ROYBAL-ALLARD, Mr. RYAN, Mr. SARBANES, Ms. SCANLON, Ms. SCHAKOWSKY, Mr. SHERMAN, Mr. SIRES, Mr. SUOZZI, Mr. TAKANO, Ms. TITUS, Ms. TLAIB, Mr. TONKO, Ms. VELÁZQUEZ, Ms. WATERS, Mrs. WATSON COLEMAN, Mr. WELCH, Ms. WILD, Mr. YARMUTH, Mr. CARTWRIGHT, Mr. PASCRELL, Ms. BASS, Mr. GREEN of Texas, Mr. DAVID SCOTT of Georgia, Mr. CASE, Ms. CLARKE of New York, and Ms. ESCOBAR) 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 provide for current year inclusion of net CFC tested income, 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, ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the
 5 “No Tax Breaks for Outsourcing Act”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
 7 wise expressly provided, whenever in this Act an amend-
 8 ment or repeal is expressed in terms of an amendment
 9 to, or repeal of, a section or other provision, the reference
 10 shall be considered to be made to a section or other provi-
 11 sion of the Internal Revenue Code of 1986.

12 (c) TABLE OF CONTENTS.—The table of contents of
 13 this Act is as follows:

Sec. 1. Short title, etc.

Sec. 2. Current year inclusion of net CFC tested income.

Sec. 3. Country-by-country application of limitation on foreign tax credit based
 on taxable units.

Sec. 4. Limitation on deduction of interest by domestic corporations which are
 members of an international financial reporting group.

Sec. 5. Modifications to rules relating to inverted corporations.

Sec. 6. Treatment of foreign corporations managed and controlled in the United
 States as domestic corporations.

14 **SEC. 2. CURRENT YEAR INCLUSION OF NET CFC TESTED IN-**
 15 **COME.**

16 (a) REPEAL OF TAX-FREE DEEMED RETURN ON IN-
 17 VESTMENTS.—

1 (1) IN GENERAL.—Section 951A(a) is amended
2 by striking “global intangible low-taxed income” and
3 inserting “net CFC tested income”.

4 (2) CONFORMING AMENDMENTS.—

5 (A) Section 951A is amended by striking
6 subsections (b) and (d).

7 (B) Section 951A(e)(1) is amended by
8 striking “subsections (b), (c)(1)(A), and” and
9 inserting “subsections (c)(1)(A) and”.

10 (C) Section 951A(f) is amended by strik-
11 ing “global intangible low-taxed income” each
12 place it appears and inserting “net CFC tested
13 income”.

14 (D) Section 960(d)(2)(A) is amended by
15 striking “global intangible low-taxed income (as
16 defined in section 951A(b))” and inserting “net
17 CFC tested income (as defined in section
18 951A(c))”.

19 (b) REPEAL OF REDUCED RATE OF TAX ON NET
20 CFC TESTED INCOME AND FOREIGN-DERIVED INTAN-
21 GIBLE INCOME.—

22 (1) IN GENERAL.—Part VIII of subchapter B
23 of chapter 1 is amended by striking section 250 (and
24 by striking the item relating to such section in the
25 table of sections of such part).

1 (2) CONFORMING AMENDMENTS.—

2 (A) Section 59A(c)(4)(B)(i) is amended by
3 striking “section 172, 245A, or 250” and in-
4 serting “section 172 or 245A”.

5 (B) Section 172(d) is amended by striking
6 paragraph (9).

7 (C) Section 246(b)(1) is amended—

8 (i) by striking “subsection (a) and (b)
9 of section 245, and section 250” and in-
10 serting “and subsection (a) and (b) of sec-
11 tion 245”; and

12 (ii) by striking “subsection (a) and
13 (b) of section 245, and 250” and inserting
14 “and subsection (a) and (b) of section
15 245”.

16 (D) Section 469(i)(3)(F)(iii) is amended
17 by striking “222, and 250” and inserting “and
18 222”.

19 (c) REPEAL OF CERTAIN EXCLUSIONS FROM THE
20 DETERMINATION OF TESTED INCOME.—Section
21 951A(c)(2)(A)(i) is amended—

22 (1) by striking subclauses (III) and (V),

23 (2) by redesignating subclause (IV) as sub-
24 clause (III),

1 (3) by adding “and” at the end of subclause
2 (II), and

3 (4) by striking “and” at the end of subclause
4 (III) (as so redesignated) and inserting “over”.

5 (d) INCREASE IN DEEMED PAID CREDIT FOR TAXES
6 PROPERLY ATTRIBUTABLE TO TESTED INCOME.—

7 (1) IN GENERAL.—Section 960(d) is amended
8 by striking “80 percent of”.

9 (2) CONFORMING AMENDMENT.—Section 78 is
10 amended by striking “(determined without regard to
11 the phrase “80 percent of” in subsection (d)(1)
12 thereof”.

13 (e) REPEAL OF HIGH TAX EXCLUSION FOR FOREIGN
14 BASE COMPANY INCOME AND INSURANCE INCOME.—

15 (1) IN GENERAL.—Section 954(b) is amended
16 by striking paragraph (4).

17 (2) CONFORMING AMENDMENT.—Section
18 904(d)(3)(E) is amended by striking the last sen-
19 tence.

20 (f) ELIMINATION OF CARRYBACK OF FOREIGN TAX
21 CREDIT.—Section 904(c) is amended—

22 (1) by striking “in the first preceding taxable
23 year, and in any of the first 10 succeeding taxable
24 years, in that order” and inserting “in any of the
25 first 10 succeeding taxable years, in order”,

1 (2) by striking “preceding or” each place it ap-
2 pears, and

3 (3) by striking “CARRYBACK AND” in the head-
4 ing thereof.

5 (g) TREATMENT OF FOREIGN BASE COMPANY OIL
6 RELATED INCOME AS SUBPART F INCOME.—

7 (1) IN GENERAL.—Section 954(a) is amended
8 by striking “and” at the end of paragraph (2), by
9 striking the period at the end of paragraph (3) and
10 inserting “, and”, and by adding at the end the fol-
11 lowing new paragraph:

12 “(4) the foreign base company oil related in-
13 come for the taxable year (determined under sub-
14 section (g) and reduced as provided in subsection
15 (b)(5)).”.

16 (2) FOREIGN BASE COMPANY OIL RELATED IN-
17 COME.—Section 954 is amended by inserting after
18 subsection (e) the following new subsection:

19 “(g) FOREIGN BASE COMPANY OIL RELATED IN-
20 COME.—For purposes of this section, the term ‘foreign
21 base company oil related income’ means foreign oil related
22 income (within the meaning of paragraphs (2) and (3) of
23 section 907(c)) other than income derived from a source
24 within a foreign country in connection with—

1 “(1) oil or gas which was extracted from an oil
2 or gas well located in such foreign country, or

3 “(2) oil, gas, or a primary product of oil or gas
4 which is sold by the foreign corporation or a related
5 person for use or consumption within such country
6 or is loaded in such country on a vessel or aircraft
7 as fuel for such vessel or aircraft.

8 Such term shall not include any foreign personal holding
9 company income (as defined in subsection (c)).”.

10 (3) CONFORMING AMENDMENTS.—

11 (A) Section 952(c)(1)(B)(iii) is amended
12 by redesignating subclauses (III) and (IV) as
13 subclauses (IV) and (V), respectively, and by
14 inserting after subclause (II) the following new
15 subclause:

16 “(III) foreign base company oil
17 related income.”.

18 (B) Section 954(b) is amended—

19 (i) by striking “and the foreign base
20 company services income” in paragraph
21 (5) and inserting “the foreign base com-
22 pany services income, and the foreign base
23 company oil related income”, and

24 (ii) by adding at the end the following
25 new paragraph:

1 “(6) FOREIGN BASE COMPANY OIL RELATED IN-
2 COME NOT TREATED AS ANOTHER KIND OF FOREIGN
3 BASE COMPANY INCOME.—Income of a corporation
4 which is foreign base company oil related income
5 shall not be considered foreign base company income
6 of such corporation under paragraph (2) or (3) of
7 subsection (a).”.

8 (h) EFFECTIVE DATES.—

9 (1) IN GENERAL.—Except as otherwise pro-
10 vided in this subsection, the amendments made by
11 this section shall apply to taxable years of foreign
12 corporations beginning after December 31, 2020,
13 and to taxable years of United States shareholders
14 in which or with which such taxable years of foreign
15 corporations end.

16 (2) REPEAL OF REDUCED RATE OF TAX; IN-
17 CREASE IN DEEMED PAID CREDIT.—The amend-
18 ments made by subsection (b) and (d) shall apply to
19 taxable years beginning after December 31, 2020.

20 (3) REPEAL OF HIGH TAX EXCLUSION FOR
21 FOREIGN BASE COMPANY INCOME AND INSURANCE
22 INCOME.—The amendment made by subsection (e)
23 shall apply to taxable years of foreign corporations
24 beginning after December 31, 2020, and to taxable
25 years of United States shareholders in which or with

1 which such taxable years of foreign corporations
2 end.

3 (4) **ELIMINATION OF CARRYBACK OF FOREIGN**
4 **TAX CREDIT.**—The amendment made by subsection
5 (f) shall apply to credits arising in taxable years be-
6 ginning after December 31, 2020.

7 **SEC. 3. COUNTRY-BY-COUNTRY APPLICATION OF LIMITA-**
8 **TION ON FOREIGN TAX CREDIT BASED ON**
9 **TAXABLE UNITS.**

10 (a) **IN GENERAL.**—Section 904 is amended by insert-
11 ing after subsection (d) the following new subsection:

12 “(e) **COUNTRY-BY-COUNTRY APPLICATION OF SEC-**
13 **TION BASED ON TAXABLE UNITS.**—

14 “(1) **IN GENERAL.**—The provisions of sub-
15 sections (a), (b), (c), and (d) and sections 907 and
16 960 shall be applied separately with respect to each
17 country and possession by taking into account the
18 aggregate items properly attributable or otherwise
19 allocable to a taxable unit of the taxpayer which is
20 a tax resident of such country or possession.

21 “(2) **TAXABLE UNITS.**—

22 “(A) **IN GENERAL.**—Unless otherwise pro-
23 vided by the Secretary, to the extent an item
24 may be properly attributable or otherwise allo-
25 cable to more than one taxable unit under para-

1 graph (1), such item shall be treated as prop-
2 erly attributable or otherwise allocable to the
3 lowest-tier taxable unit of the taxpayer to which
4 such item may be properly attributable or oth-
5 erwise allocable. No item shall be attributable
6 or otherwise allocable to more than one taxable
7 unit of the taxpayer.

8 “(B) DETERMINATION OF TAXABLE
9 UNITS.—Except as otherwise provided by the
10 Secretary, the taxable units of a taxpayer are
11 as follows:

12 “(i) IN GENERAL.—The general tax-
13 able unit of the taxpayer which is not oth-
14 erwise described in a separate clause of
15 this subparagraph.

16 “(ii) FOREIGN BRANCHES.—Each for-
17 eign branch the activities of which are car-
18 ried on directly or indirectly (through one
19 or more pass-through entities) by the tax-
20 payer.

21 “(iii) CONTROLLED FOREIGN COR-
22 PORATIONS.—Each controlled foreign cor-
23 poration with respect to which the tax-
24 payer is a United States shareholder.

1 “(iv) BRANCHES OF CONTROLLED
2 FOREIGN CORPORATIONS.—Each branch
3 the activities of which are carried on di-
4 rectly or indirectly (through one or more
5 pass-through entities) by a controlled for-
6 eign corporation referred to in clause (iii).

7 “(v) INTERESTS IN PASS-THROUGH
8 ENTITIES.—

9 “(I) IN GENERAL.—Each interest
10 in a pass-through entity held directly
11 or indirectly by the taxpayer or a con-
12 trolled foreign corporation referred to
13 in clause (iii) if such entity is a tax
14 resident of a foreign country.

15 “(II) CERTAIN INTERESTS HELD
16 BY CONTROLLED FOREIGN CORPORA-
17 TIONS.—Each interest in a pass-
18 through entity held directly or indi-
19 rectly by a controlled foreign corpora-
20 tion referred to in clause (iii) if such
21 entity is a tax resident of a foreign
22 country or such entity is treated as a
23 corporation (or other entity that is
24 not fiscally transparent) for purposes
25 of the tax law of a foreign country in

1 which such controlled foreign corpora-
2 tion is a tax resident.

3 “(3) TAX RESIDENT.—For purposes of this
4 subsection, a taxable unit shall be treated as a tax
5 resident of a country or possession if such taxable
6 unit is liable to tax under the tax law of such coun-
7 try or possession as a resident.

8 “(4) PASS-THROUGH ENTITY.—For purposes of
9 this subsection, the term ‘pass-through entity’ means
10 any partnership and any other type of entity (other
11 than a corporation) identified by the Secretary as a
12 pass-through entity for purposes of this subsection.

13 “(5) REGULATIONS.—The Secretary shall issue
14 such regulations or other guidance as the Secretary
15 determines necessary or appropriate to carry out the
16 purposes of this subsection, including regulations or
17 other guidance—

18 “(A) for determining the country or pos-
19 session with respect to which any taxable unit
20 is a tax resident, including—

21 “(i) determining such country or pos-
22 session on the basis of location if such tax-
23 able unit would not otherwise be a tax resi-
24 dent of any country or possession, and

1 “(ii) ensuring that such taxable unit
2 is a tax resident of not more than 1 coun-
3 try or possession,

4 “(B) applying this section to hybrid enti-
5 ties, passive foreign investment companies,
6 tiered structures, and branches, including
7 branches that do not give rise to a taxable pres-
8 ence under the tax law of the country where the
9 branch is located, and

10 “(C) determining whether any entity is not
11 fiscally transparent within the meaning of para-
12 graph (2)(B)(v)(II).”.

13 (b) APPLICATION OF FOREIGN TAX CREDIT LIMITA-
14 TION WITH RESPECT TO FOREIGN BRANCHES.—Section
15 904(d)(2)(J)(i) is amended—

16 (1) by striking “qualified business units (as de-
17 fined in section 989(a)) in 1 or more foreign coun-
18 tries” and inserting “foreign branches described in
19 section 904(e)(2)(B)(ii)”, and

20 (2) by striking “a qualified business unit” and
21 inserting “a foreign branch”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to taxable years beginning after
24 December 31, 2020.

1 **SEC. 4. LIMITATION ON DEDUCTION OF INTEREST BY DO-**
2 **MESTIC CORPORATIONS WHICH ARE MEM-**
3 **BERS OF AN INTERNATIONAL FINANCIAL RE-**
4 **PORTING GROUP.**

5 (a) IN GENERAL.—Section 163 is amended by redес-
6 ignating subsection (n) as subsection (p) and by inserting
7 after subsection (m) the following new subsection:

8 “(n) LIMITATION ON DEDUCTION OF INTEREST BY
9 DOMESTIC CORPORATIONS IN INTERNATIONAL FINAN-
10 CIAL REPORTING GROUPS.—

11 “(1) IN GENERAL.—In the case of any domestic
12 corporation which is a member of any international
13 financial reporting group, the deduction under this
14 chapter for interest paid or accrued during the tax-
15 able year shall not exceed the sum of—

16 “(A) the allowable percentage of 110 per-
17 cent of the excess (if any) of—

18 “(i) the amount of such interest so
19 paid or accrued, over

20 “(ii) the amount described in subpara-
21 graph (B), plus

22 “(B) the amount of interest includible in
23 gross income of such corporation for such tax-
24 able year.

25 “(2) INTERNATIONAL FINANCIAL REPORTING
26 GROUP.—

1 “(A) For purposes of this subsection, the
2 term ‘international financial reporting group’
3 means, with respect to any reporting year, any
4 group of entities which—

5 “(i) includes—

6 “(I) at least one foreign corpora-
7 tion engaged in a trade or business
8 within the United States, or

9 “(II) at least one domestic cor-
10 poration and one foreign corporation,

11 “(ii) prepares consolidated financial
12 statements with respect to such year, and

13 “(iii) reports in such statements aver-
14 age annual gross receipts (determined in
15 the aggregate with respect to all entities
16 which are part of such group) for the 3-re-
17 porting-year period ending with such re-
18 porting year in excess of \$100,000,000.

19 “(B) RULES RELATING TO DETERMINA-
20 TION OF AVERAGE GROSS RECEIPTS.—For pur-
21 poses of subparagraph (A)(iii), rules similar to
22 the rules of section 448(c)(3) shall apply.

23 “(3) ALLOWABLE PERCENTAGE.—For purposes
24 of this subsection—

1 “(A) IN GENERAL.—The term ‘allowable
2 percentage’ means, with respect to any domestic
3 corporation for any taxable year, the ratio (ex-
4 pressed as a percentage and not greater than
5 100 percent) of—

6 “(i) such corporation’s allocable share
7 of the international financial reporting
8 group’s reported net interest expense for
9 the reporting year of such group which
10 ends in or with such taxable year of such
11 corporation, over

12 “(ii) such corporation’s reported net
13 interest expense for such reporting year of
14 such group.

15 “(B) REPORTED NET INTEREST EX-
16 PENSE.—The term ‘reported net interest ex-
17 pense’ means—

18 “(i) with respect to any international
19 financial reporting group for any reporting
20 year, the excess of—

21 “(I) the aggregate amount of in-
22 terest expense reported in such
23 group’s consolidated financial state-
24 ments for such taxable year, over

1 “(II) the aggregate amount of in-
2 terest income reported in such group’s
3 consolidated financial statements for
4 such taxable year, and

5 “(ii) with respect to any domestic cor-
6 poration for any reporting year, the excess
7 of—

8 “(I) the amount of interest ex-
9 pense of such corporation reported in
10 the books and records of the inter-
11 national financial reporting group
12 which are used in preparing such
13 group’s consolidated financial state-
14 ments for such taxable year, over

15 “(II) the amount of interest in-
16 come of such corporation reported in
17 such books and records.

18 “(C) ALLOCABLE SHARE OF REPORTED
19 NET INTEREST EXPENSE.—With respect to any
20 domestic corporation which is a member of any
21 international financial reporting group, such
22 corporation’s allocable share of such group’s re-
23 ported net interest expense for any reporting
24 year is the portion of such expense which bears
25 the same ratio to such expense as—

1 “(i) the EBITDA of such corporation
2 for such reporting year, bears to

3 “(ii) the EBITDA of such group for
4 such reporting year.

5 “(D) EBITDA.—

6 “(i) IN GENERAL.—The term
7 ‘EBITDA’ means, with respect to any re-
8 porting year, earnings before interest,
9 taxes, depreciation, and amortization—

10 “(I) as determined in the inter-
11 national financial reporting group’s
12 consolidated financial statements for
13 such year, or

14 “(II) for purposes of subpara-
15 graph (A)(i), as determined in the
16 books and records of the international
17 financial reporting group which are
18 used in preparing such statements if
19 not determined in such statements.

20 “(ii) TREATMENT OF DISREGARDED
21 ENTITIES.—The EBITDA of any domestic
22 corporation shall not fail to include the
23 EBITDA of any entity which is dis-
24 regarded for purposes of this chapter.

1 “(iii) TREATMENT OF INTRA-GROUP
2 DISTRIBUTIONS.—The EBITDA of any do-
3 mestic corporation shall be determined
4 without regard to any distribution received
5 by such corporation from any other mem-
6 ber of the international financial reporting
7 group.

8 “(E) SPECIAL RULES FOR NON-POSITIVE
9 EBITDA.—

10 “(i) NON-POSITIVE GROUP EBITDA.—
11 In the case of any international financial
12 reporting group the EBITDA of which is
13 zero or less, paragraph (1) shall not apply
14 to any member of such group the EBITDA
15 of which is above zero.

16 “(ii) NON-POSITIVE ENTITY
17 EBITDA.—In the case of any group mem-
18 ber the EBITDA of which is zero or less,
19 paragraph (1) shall be applied without re-
20 gard to subparagraph (A) thereof.

21 “(4) CONSOLIDATED FINANCIAL STATEMENT.—
22 For purposes of this subsection, the term ‘consoli-
23 dated financial statement’ means any consolidated
24 financial statement described in paragraph (2)(A)(ii)
25 if such statement is—

1 “(A) a financial statement which is cer-
2 tified as being prepared in accordance with gen-
3 erally accepted accounting principles, inter-
4 national financial reporting standards, or any
5 other comparable method of accounting identi-
6 fied by the Secretary, and which is—

7 “(i) a 10-K (or successor form), or
8 annual statement to shareholders, required
9 to be filed with the United States Securi-
10 ties and Exchange Commission,

11 “(ii) an audited financial statement
12 which is used for—

13 “(I) credit purposes,

14 “(II) reporting to shareholders,
15 partners, or other proprietors, or to
16 beneficiaries, or

17 “(III) any other substantial
18 nontax purpose,

19 but only if there is no statement described
20 in clause (i), or

21 “(iii) filed with any other Federal or
22 State agency for nontax purposes, but only
23 if there is no statement described in clause
24 (i) or (ii), or

25 “(B) a financial statement which—

1 “(i) is used for a purpose described in
2 subclause (I), (II), or (III) of subpara-
3 graph (A)(ii), or

4 “(ii) filed with any regulatory or gov-
5 ernmental body (whether domestic or for-
6 eign) specified by the Secretary,

7 but only if there is no statement described in
8 subparagraph (A).

9 “(5) REPORTING YEAR.—For purposes of this
10 subsection, the term ‘reporting year’ means, with re-
11 spect to any international financial reporting group,
12 the year with respect to which the consolidated fi-
13 nancial statements are prepared.

14 “(6) APPLICATION TO CERTAIN ENTITIES.—

15 “(A) PARTNERSHIPS.—Except as other-
16 wise provided by the Secretary in paragraph
17 (7), this subsection and subsection (o) shall
18 apply to any partnership which is a member of
19 any international financial reporting group
20 under rules similar to the rules of section
21 163(j)(4).

22 “(B) FOREIGN CORPORATIONS ENGAGED
23 IN TRADE OR BUSINESS WITHIN THE UNITED
24 STATES.—Except as otherwise provided by the
25 Secretary in paragraph (7), any deduction for

1 interest paid or accrued by a foreign corpora-
2 tion engaged in a trade or business within the
3 United States shall be limited in a manner con-
4 sistent with the principles of this subsection.

5 “(C) CONSOLIDATED GROUPS.—For pur-
6 poses of this subsection, the members of any
7 group that file (or are required to file) a con-
8 solidated return with respect to the tax imposed
9 by chapter 1 for a taxable year shall be treated
10 as a single corporation.

11 “(7) REGULATIONS.—The Secretary may issue
12 such regulations or other guidance as are necessary
13 or appropriate to carry out the purposes of this sub-
14 section.”.

15 (b) CARRYFORWARD OF DISALLOWED INTEREST.—

16 (1) IN GENERAL.—Section 163 is amended by
17 inserting after subsection (n), as added by sub-
18 section (a), the following new subsection:

19 “(o) CARRYFORWARD OF CERTAIN DISALLOWED IN-
20 TEREST.—The amount of any interest not allowed as a
21 deduction for any taxable year by reason of subsection
22 (j)(1) or (n)(1) (whichever imposes the lower limitation
23 with respect to such taxable year) shall be treated as inter-
24 est (and as business interest for purposes of subsection
25 (j)(1)) paid or accrued in the succeeding taxable year. In-

1 terest paid or accrued in any taxable year (determined
2 without regard to the preceding sentence) shall not be car-
3 ried past the fifth taxable year following such taxable year,
4 determined by treating interest as allowed as a deduction
5 on a first-in, first-out basis.”.

6 (2) CONFORMING AMENDMENTS.—

7 (A) Section 163(j)(2) is amended to read
8 as follows:

9 “(2) CARRYFORWARD CROSS-REFERENCE.—For
10 carryforward treatment, see subsection (o).”.

11 (B) Section 163(j)(4)(B)(i)(I) is amended
12 by striking “paragraph (2)” and inserting “sub-
13 section (o)”.

14 (C) Section 381(c)(20) is amended to read
15 as follows:

16 “(20) CARRYFORWARD OF DISALLOWED INTER-
17 EST.—The carryover of disallowed interest described
18 in section 163(o) to taxable years ending after the
19 date of distribution or transfer.”.

20 (D) Section 382(d)(3) is amended to read
21 as follows:

22 “(3) APPLICATION TO CARRYFORWARD OF DIS-
23 ALLOWED INTEREST.—The term ‘pre-change loss’
24 shall include any carryover of disallowed interest de-

1 scribed in section 163(o) under rules similar to the
2 rules of paragraph (1).”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 2020.

6 **SEC. 5. MODIFICATIONS TO RULES RELATING TO IN-**
7 **VERTED CORPORATIONS.**

8 (a) IN GENERAL.—Subsection (b) of section 7874 is
9 amended to read as follows:

10 “(b) INVERTED CORPORATIONS TREATED AS DO-
11 MESTIC CORPORATIONS.—

12 “(1) IN GENERAL.—Notwithstanding section
13 7701(a)(4), a foreign corporation shall be treated for
14 purposes of this title as a domestic corporation if—

15 “(A) such corporation would be a surro-
16 gate foreign corporation if subsection (a)(2)
17 were applied by substituting ‘80 percent’ for
18 ‘60 percent’, or

19 “(B) such corporation is an inverted do-
20 mestic corporation.

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

1 “(A) the entity completes after December
2 22, 2017, the direct or indirect acquisition of—

3 “(i) substantially all of the properties
4 held directly or indirectly by a domestic
5 corporation, or

6 “(ii) substantially all of the assets of,
7 or substantially all of the properties consti-
8 tuting a trade or business of, a domestic
9 partnership, and

10 “(B) after the acquisition, either—

11 “(i) more than 50 percent of the stock
12 (by vote or value) of the entity is held—

13 “(I) in the case of an acquisition
14 with respect to a domestic corpora-
15 tion, by former shareholders of the
16 domestic corporation by reason of
17 holding stock in the domestic corpora-
18 tion, or

19 “(II) in the case of an acquisition
20 with respect to a domestic partner-
21 ship, by former partners of the do-
22 mestic partnership by reason of hold-
23 ing a capital or profits interest in the
24 domestic partnership, or

1 “(ii) the management and control of
2 the expanded affiliated group which in-
3 cludes the entity occurs, directly or indi-
4 rectly, primarily within the United States,
5 and such expanded affiliated group has
6 significant domestic business activities.

7 “(3) EXCEPTION FOR CORPORATIONS WITH
8 SUBSTANTIAL BUSINESS ACTIVITIES IN FOREIGN
9 COUNTRY OF ORGANIZATION.—A foreign corporation
10 described in paragraph (2) shall not be treated as an
11 inverted domestic corporation if after the acquisition
12 the expanded affiliated group which includes the en-
13 tity has substantial business activities in the foreign
14 country in which or under the law of which the enti-
15 ty is created or organized when compared to the
16 total business activities of such expanded affiliated
17 group. For purposes of subsection (a)(2)(B)(iii) and
18 the preceding sentence, the term ‘substantial busi-
19 ness activities’ shall have the meaning given such
20 term under regulations in effect on December 22,
21 2017, except that the Secretary may issue regula-
22 tions increasing the threshold percent in any of the
23 tests under such regulations for determining if busi-
24 ness activities constitute substantial business activi-
25 ties for purposes of this paragraph.

1 “(4) MANAGEMENT AND CONTROL.—For pur-
2 poses of paragraph (2)(B)(ii)—

3 “(A) IN GENERAL.—The Secretary shall
4 prescribe regulations for purposes of deter-
5 mining cases in which the management and
6 control of an expanded affiliated group is to be
7 treated as occurring, directly or indirectly, pri-
8 marily within the United States. The regula-
9 tions prescribed under the preceding sentence
10 shall apply to periods after December 22, 2017.

11 “(B) EXECUTIVE OFFICERS AND SENIOR
12 MANAGEMENT.—Such regulations shall provide
13 that the management and control of an ex-
14 panded affiliated group shall be treated as oc-
15 curring, directly or indirectly, primarily within
16 the United States if substantially all of the ex-
17 ecutive officers and senior management of the
18 expanded affiliated group who exercise day-to-
19 day responsibility for making decisions involving
20 strategic, financial, and operational policies of
21 the expanded affiliated group are based or pri-
22 marily located within the United States. Indi-
23 viduals who in fact exercise such day-to-day re-
24 sponsibilities shall be treated as executive offi-

1 cers and senior management regardless of their
2 title.

3 “(5) SIGNIFICANT DOMESTIC BUSINESS ACTIVI-
4 TIES.—For purposes of paragraph (2)(B)(ii), an ex-
5 panded affiliated group has significant domestic
6 business activities if at least 25 percent of—

7 “(A) the employees of the group are based
8 in the United States,

9 “(B) the employee compensation incurred
10 by the group is incurred with respect to employ-
11 ees based in the United States,

12 “(C) the assets of the group are located in
13 the United States, or

14 “(D) the income of the group is derived in
15 the United States,

16 determined in the same manner as such determina-
17 tions are made for purposes of determining substan-
18 tial business activities under regulations referred to
19 in paragraph (3) as in effect on December 22, 2017,
20 but applied by treating all references in such regula-
21 tions to ‘foreign country’ and ‘relevant foreign coun-
22 try’ as references to ‘the United States’. The Sec-
23 retary may issue regulations decreasing the thresh-
24 old percent in any of the tests under such regula-
25 tions for determining if business activities constitute

1 significant domestic business activities for purposes
2 of this paragraph.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Clause (i) of section 7874(a)(2)(B) is
5 amended by striking “after March 4, 2003,” and in-
6 serting “after March 4, 2003, and before December
7 23, 2017,”.

8 (2) Subsection (c) of section 7874 is amend-
9 ed—

10 (A) in paragraph (2)—

11 (i) by striking “subsection
12 (a)(2)(B)(ii)” and inserting “subsections
13 (a)(2)(B)(ii) and (b)(2)(B)(i)”;

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

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

19 (C) in paragraph (5), by striking “sub-
20 section (a)(2)(B)(ii)” and inserting “sub-
21 sections (a)(2)(B)(ii) and (b)(2)(B)(i)”;

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

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years ending after De-
3 cember 22, 2017.

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

7 (a) IN GENERAL.—Section 7701 is amended by re-
8 designating subsection (p) as subsection (q) and by insert-
9 ing after subsection (o) the following new subsection:

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

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

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

19 “(B) the management and control of the
20 corporation occurs, directly or indirectly, pri-
21 marily within the United States,

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

25 “(2) CORPORATION DESCRIBED.—

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

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

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

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

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

19 “(ii) such corporation—

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

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

1 held directly or indirectly) of less than
2 \$50,000,000, and

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

5 “(3) MANAGEMENT AND CONTROL.—

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

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

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

24 “(ii) individuals who are not executive
25 officers and senior management of the cor-

1 poration (including individuals who are of-
2 ficers or employees of other corporations in
3 the same chain of corporations as the cor-
4 poration) shall be treated as executive offi-
5 cers and senior management if such indi-
6 viduals exercise the day-to-day responsibil-
7 ities of the corporation described in clause
8 (i).

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

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

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

20 (b) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to taxable years beginning on or
22 after the date which is 2 years after the date of the enact-
23 ment of this Act, whether or not regulations are issued

1 under section 7701(p)(3) of the Internal Revenue Code
2 of 1986, as added by this section.

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