

114TH CONGRESS
2D SESSION

H. R. 4581

To amend the Internal Revenue Code of 1986 to prevent earnings stripping of corporations which are related to inverted corporations.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 23, 2016

Mr. LEVIN (for himself, Mr. VAN HOLLEN, Mr. PASCRELL, Mr. THOMPSON of California, and Mr. RANGEL) 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 prevent earnings stripping of corporations which are related to inverted corporations.

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 “Stop Corporate Earn-
5 ings Stripping Act of 2016”.

1 **SEC. 2. PREVENTION OF EARNINGS STRIPPING OF COR-**
 2 **PORATIONS WHICH ARE RELATED TO IN-**
 3 **VERTED CORPORATIONS.**

4 (a) IN GENERAL.—Section 7874 of the Internal Rev-
 5 enue Code of 1986 is amended by redesignating subsection
 6 (g) as subsection (h) and by inserting after subsection (f)
 7 the following new subsection:

8 “(g) SPECIAL RULES APPLICABLE TO EARNINGS
 9 STRIPPING AND RELATED PARTY TRANSACTIONS.—

10 “(1) IN GENERAL.—In the case of any corpora-
 11 tion which is a related corporation for any taxable
 12 year, section 163(j) shall be applied with the fol-
 13 lowing modifications:

14 “(A) 5-YEAR LIMITATION ON
 15 CARRYFORWARD OF DISALLOWED AMOUNTS.—

16 For purposes of determining any amount car-
 17 ried to, or from, such taxable year under sub-
 18 paragraph (B) of section 163(j)(1), such sub-
 19 paragraph shall be applied by substituting ‘in
 20 the 1st succeeding taxable and in the 2nd
 21 through 5th succeeding taxable years to the ex-
 22 tent disallowed under subparagraph (A) in the
 23 preceding taxable year (determined on a first-
 24 in, first-out basis and by treating the amount
 25 carried forward under this subparagraph as al-
 26 lowed under subparagraph (A) before amounts

1 otherwise taken into account under subpara-
 2 graph (A))’ for ‘in the succeeding taxable year’.

3 “(B) RULES FOR DETERMINING WHETHER
 4 INTEREST LIMITATION RULES APPLY.—In ap-
 5 plying section 163(j)(2) to determine whether
 6 section 163(j) applies to such related corpora-
 7 tion for such taxable year—

8 “(i) subparagraph (A)(ii) shall be dis-
 9 regarded, and

10 “(ii) subparagraph (B)(i)(II) shall be
 11 applied by substituting ‘25 percent of the
 12 adjusted taxable income of the corporation’
 13 for ‘the sum of 50 percent of the adjusted
 14 taxable income of the corporation plus any
 15 excess limitation carryforward under clause
 16 (ii)’ for purposes of determining the cor-
 17 poration’s excess interest expense for such
 18 taxable year.

19 “(2) RELATED CORPORATION.—For purposes of
 20 this subsection—

21 “(A) IN GENERAL.—The term ‘related cor-
 22 poration’ means any corporation for any taxable
 23 year if, at any time during such taxable year,
 24 such corporation is a member of an expanded
 25 affiliated group which includes (at any time

1 during such taxable year) an entity which is a
2 surrogate foreign corporation, determined by
3 applying subsection (a)(2)(B)—

4 “(i) by substituting ‘on or after May
5 8, 2014’ for ‘after March 4, 2003’ in
6 clause (i) thereof,

7 “(ii) by substituting ‘more than 50
8 percent’ for ‘at least 60 percent’ in clause
9 (ii) thereof, and

10 “(iii) by disregarding the matter fol-
11 lowing clause (iii) thereof.

12 “(B) EXCEPTION FOR INVERTED COR-
13 PORATIONS TREATED AS DOMESTIC CORPORA-
14 TIONS.—Such term shall not include any cor-
15 poration if such corporation is treated as a do-
16 mestic corporation by reason of subsection (b).

17 “(C) SPECIAL RULE FOR INCLUSION OF
18 NONCORPORATE ENTITIES.—For purposes of
19 subparagraph (A), a partnership or other entity
20 (other than a corporation) shall be treated as a
21 member of an expanded affiliated group if such
22 entity controls (as determined under section
23 954(d)(3)), or is controlled by (as so deter-
24 mined), members of such group (including any

1 entity treated as a member of such group by
2 reason of this sentence).”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 this section shall apply with respect to taxable years begin-
5 ning after the date of the enactment of this Act.

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