

115TH CONGRESS
1ST SESSION

H. R. 3603

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

JULY 28, 2017

Mr. LEVIN (for himself and Mr. THOMPSON of California) 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 2017”.

6 **SEC. 2. PREVENTION OF EARNINGS STRIPPING OF COR-**
7 **PORATIONS WHICH ARE RELATED TO IN-**
8 **VERTED CORPORATIONS.**

9 (a) IN GENERAL.—Section 7874 of the Internal Rev-
10 enue Code of 1986 is amended by redesignating subsection

1 (g) as subsection (h) and by inserting after subsection (f)
 2 the following new subsection:

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

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

9 “(A) 5-YEAR LIMITATION ON
 10 CARRYFORWARD OF DISALLOWED AMOUNTS.—

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

24 “(B) RULES FOR DETERMINING WHETHER
 25 INTEREST LIMITATION RULES APPLY.—In ap-

plying section 163(j)(2) to determine whether section 163(j) applies to such related corporation for such taxable year—

“(i) subparagraph (A)(ii) shall be disregarded, and

“(ii) subparagraph (B)(i)(II) shall be applied by substituting ‘25 percent of the adjusted taxable income of the corporation’ for ‘the sum of 50 percent of the adjusted taxable income of the corporation plus any excess limitation carryforward under clause (ii)’ for purposes of determining the corporation’s excess interest expense for such taxable year.

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

“(A) IN GENERAL.—The term ‘related corporation’ means any corporation for any taxable year if, at any time during such taxable year, such corporation is a member of an expanded affiliated group which includes (at any time during such taxable year) an entity which—

“(i) is a surrogate foreign corporation, determined by applying subsection (a)(2)(B)—

1 “(I) by substituting ‘on or after
2 May 8, 2014’ for ‘after March 4,
3 2003’ in clause (i) thereof,

4 “(II) by substituting ‘more than
5 50 percent’ for ‘at least 60 percent’ in
6 clause (ii) thereof, and

7 “(III) by disregarding the matter
8 following clause (iii) thereof, and

9 “(ii) is not treated as a domestic cor-
10 poration by reason of subsection (b).

11 “(B) SPECIAL RULE FOR INCLUSION OF
12 NONCORPORATE ENTITIES.—For purposes of
13 subparagraph (A), a partnership or other entity
14 (other than a corporation) shall be treated as a
15 member of an expanded affiliated group if such
16 entity controls (as determined under section
17 954(d)(3)), or is controlled by (as so deter-
18 mined), members of such group (including any
19 entity treated as a member of such group by
20 reason of this sentence).

21 “(3) RULES RELATED TO APPLICATION OF 5-
22 YEAR CARRYFORWARD OF DISALLOWED AMOUNTS.—
23 For purposes of applying paragraph (1)(A)—

1 “(A) TRANSITION RULE.—For purposes of
2 applying paragraph (1)(A), the term ‘1st suc-
3 ceeding taxable year’ means the later of—

4 “(i) the 1st succeeding taxable year
5 after the taxable year in which the dis-
6 qualified interest is paid or accrued (deter-
7 mined without regard to subsection
8 (j)(1)(B)), or

9 “(ii) the 1st taxable year beginning
10 after the date of the enactment of this sub-
11 section.

12 “(B) AMOUNTS CARRIED TO TAXABLE
13 YEAR FOR WHICH CORPORATION IS A RELATED
14 CORPORATION.—Paragraph (1)(A) shall apply
15 to amounts carried to a taxable year to which
16 such paragraph applies without regard to
17 whether such paragraph applied to the taxable
18 year in which such amount was originally paid
19 or accrued (or to any other taxable year).

20 “(C) AMOUNTS CARRIED FROM TAXABLE
21 YEAR FOR WHICH CORPORATION IS A RELATED
22 CORPORATION.—Paragraph (1)(A) shall apply
23 to amounts carried from a taxable year to
24 which such paragraph applies (whether or not
25 such amount was originally paid or accrued in

1 such taxable year) without regard to whether
2 such paragraph applies to the taxable year to
3 which carried (or to any other taxable year).”.

4 (b) EFFECTIVE DATE.—

5 (1) IN GENERAL.—Except as provided in para-
6 graph (2), the amendments made by this section
7 shall apply to taxable years beginning after the date
8 of the enactment of this Act.

9 (2) LIMITATION ON CARRYFORWARD OF DIS-
10 ALLOWED AMOUNTS.—For purposes of determining
11 any amount carried to a taxable year beginning after
12 the date of the enactment of this Act, the amend-
13 ments made by this Act shall apply to amounts paid
14 or incurred before, on, or after the date of the enact-
15 ment of this Act.

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