118TH CONGRESS  
2D 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

[Signature] introduced the following bill; which was read twice and referred to the Committee on [Committee Name]

A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Corporate Tax Dodging Prevention Act”.

SEC. 2. RESTORATION OF PROGRESSIVE CORPORATE TAX RATE.

(a) IN GENERAL.—Section 11(b) of the Internal Revenue Code of 1986 is amended to read as follows:

“(b) AMOUNT OF TAX.—
“(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be the sum of—

“(A) 15 percent of so much of the taxable income as does not exceed $50,000,

“(B) 25 percent of so much of the taxable income as exceeds $50,000 but does not exceed $75,000,

“(C) 34 percent of so much of the taxable income as exceeds $75,000 but does not exceed $10,000,000, and

“(D) 35 percent of so much of the taxable income as exceeds $10,000,000.

In the case of a corporation which has taxable income in excess of $100,000 for any taxable year, the amount of tax determined under the preceding sentence for such taxable year shall be increased by the lesser of (i) 5 percent of such excess, or (ii) $11,750.

In the case of a corporation which has taxable income in excess of $15,000,000, the amount of the tax determined under the foregoing provisions of this paragraph shall be increased by an additional amount equal to the lesser of (i) 3 percent of such excess, or (ii) $100,000.

“(2) CERTAIN PERSONAL SERVICE CORPORATIONS NOT ELIGIBLE FOR GRADUATED RATES.—
Notwithstanding paragraph (1), the amount of the tax imposed by subsection (a) on the taxable income of a qualified personal service corporation (as defined in section 448(d)(2)) shall be equal to 35 percent of the taxable income.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2024.

SEC. 3. EQUALIZATION OF TAX RATES ON DOMESTIC AND FOREIGN INCOME.

(a) IN GENERAL.—Section 952 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(e) SPECIAL APPLICATION OF SUBPART.—

“(1) IN GENERAL.—For taxable years beginning after December 31, 2024, notwithstanding any other provision of this subpart, the term ‘subpart F income’ means, in the case of any controlled foreign corporation, the income of such corporation derived from any foreign country.

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

(b) TREATMENT OF PREVIOUSLY DEFERRED FOREIGN INCOME.—
(1) Treatment of interest.—Section 965(h) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(7) Rules relating to interest.—In the case of any amount of the net tax liability prorated to an installment under this subsection which has not been paid before the date of the enactment of this paragraph, the last date prescribed for payment of any such installment for purposes of section 6601 shall be the earlier of such last date (determined without regard to this paragraph) or such date of enactment.”.

(2) Rules for S corporations.—Section 965(i)(2)(A) of such Code is amended by adding at the end the following new clause:

“(iv) The date of the enactment of the Corporate Tax Dodging Prevention Act.”.

(c) Effective date.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2024, and to taxable years of United States shareholders in which or with which such taxable years of foreign corporations end.
SEC. 4. COUNTRY-BY-COUNTRY APPLICATION OF LIMITATION ON FOREIGN TAX CREDIT BASED ON TAXABLE UNITS.

(a) In General.—Section 904 is amended by inserting after subsection (d) the following new subsection:

“(e) Country-by-Country Application of Section Based on Taxable Units.—

“(1) In General.—The provisions of subsections (a), (b), (c), and (d) and sections 907 and 960 shall be applied separately with respect to each country and possession by taking into account the aggregate items properly attributable or otherwise allocable to a taxable unit of the taxpayer which is a tax resident of such country or possession.

“(2) Taxable Units.—

“(A) In General.—Unless otherwise provided by the Secretary, to the extent an item may be properly attributable or otherwise allocable to more than one taxable unit under paragraph (1), such item shall be treated as properly attributable or otherwise allocable to the lowest-tier taxable unit of the taxpayer to which such item may be properly attributable or otherwise allocable. No item shall be attributable or otherwise allocable to more than one taxable unit of the taxpayer.
“(B) Determination of Taxable Units.—Except as otherwise provided by the Secretary, the taxable units of a taxpayer are as follows:

“(i) In General.—The general taxable unit of the taxpayer which is not otherwise described in a separate clause of this subparagraph.

“(ii) Foreign Branches.—Each foreign branch the activities of which are carried on directly or indirectly (through one or more pass-through entities) by the taxpayer.

“(iii) Controlled Foreign Corporations.—Each controlled foreign corporation with respect to which the taxpayer is a United States shareholder.

“(iv) Branches of Controlled Foreign Corporations.—Each branch the activities of which are carried on directly or indirectly (through one or more pass-through entities) by a controlled foreign corporation referred to in clause (iii).

“(v) Interests in Pass-Through Entities.—
“(I) In general.—Each interest in a pass-through entity held directly or indirectly by the taxpayer or a controlled foreign corporation referred to in clause (iii) if such entity is a tax resident of a foreign country.

“(II) Certain interests held by controlled foreign corporations.—Each interest in a pass-through entity held directly or indirectly by a controlled foreign corporation referred to in clause (iii) if such entity is a tax resident of a foreign country or such entity is treated as a corporation (or other entity that is not fiscally transparent) for purposes of the tax law of a foreign country in which such controlled foreign corporation is a tax resident.

“(3) Tax resident.—For purposes of this subsection, a taxable unit shall be treated as a tax resident of a country or possession if such taxable unit is liable to tax under the tax law of such country or possession as a resident.
“(4) Pass-through entity.—For purposes of this subsection, the term ‘pass-through entity’ means any partnership and any other type of entity (other than a corporation) identified by the Secretary as a pass-through entity for purposes of this subsection.

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

“(A) for determining the country or possession with respect to which any taxable unit is a tax resident, including—

“(i) determining such country or possession on the basis of location if such taxable unit would not otherwise be a tax resident of any country or possession, and

“(ii) ensuring that such taxable unit is a tax resident of not more than 1 country or possession,

“(B) applying this section to hybrid entities, passive foreign investment companies, tiered structures, and branches, including branches that do not give rise to a taxable pres-
ence under the tax law of the country where the
branch is located, and
“(C) determining whether any entity is not
fiscally transparent within the meaning of para-
graph (2)(B)(v)(II).”.

(b) Application of Foreign Tax Credit Limita-
tion With Respect to Foreign Branches.—Section
904(d)(2)(J)(i) is amended—

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

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

(c) Effective Date.—The amendments made by
this section shall apply to taxable years beginning after
December 31, 2024.

SEC. 5. REPEAL OF CHECK-THE-BOX RULES FOR CERTAIN
FOREIGN ENTITIES AND CFC LOOK-THRU
RULES.

(a) Check-the-Box Rules.—Paragraph (3) of sec-
tion 7701(a) of the Internal Revenue Code of 1986 is
amended—

(1) by striking “and”, and
(2) by inserting after “insurance companies” the following: “, and any foreign business entity that has one or more owners all of which have limited liability.”.

(b) Look-Thru Rule.—Subparagraph (C) of section 954(c)(6) of such Code is amended to read as follows:

“(C) Termination.—Subparagraph (A) shall not apply to dividends, interest, rents, and royalties received or accrued after the date of the enactment of the Corporate Tax Dodging Prevention Act.”.

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 6. LIMITATION ON DEDUCTION OF INTEREST BY DOMESTIC CORPORATIONS WHICH ARE MEMBERS OF AN INTERNATIONAL FINANCIAL REPORTING GROUP.

(a) In General.—Section 163 of the Internal Revenue Code of 1986 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

“(n) Limitation on Deduction of Interest by Domestic Corporations in International Financial Reporting Groups.—
“(1) IN GENERAL.—In the case of any domestic corporation which is a member of any international financial reporting group, the deduction under this chapter for interest paid or accrued during the taxable year shall not exceed the sum of—

“(A) the allowable percentage of 105 percent of the excess (if any) of—

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

“(ii) the amount described in subparagraph (B), plus

“(B) the amount of interest includible in gross income of such corporation for such taxable year.

“(2) INTERNATIONAL FINANCIAL REPORTING GROUP.—

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

“(i) includes—

“(I) at least one foreign corporation engaged in a trade or business within the United States, or
“(II) at least one domestic corporation and one foreign corporation,
“(ii) prepares consolidated financial statements with respect to such year, and
“(iii) reports in such statements average annual gross receipts (determined in the aggregate with respect to all entities which are part of such group) for the 3-reporting-year period ending with such reporting year in excess of $25,000,000.

“(B) RULES RELATING TO DETERMINATION OF AVERAGE GROSS RECEIPTS.—For purposes of subparagraph (A)(iii), rules similar to the rules of section 448(c)(3) shall apply.

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

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

“(i) such corporation’s allocable share of the international financial reporting group’s reported net interest expense for the reporting year of such group which
ends in or with such taxable year of such

corporation, over

“(ii) such corporation’s reported net

interest expense for such reporting year of

such group.

“(B) REPORTED NET INTEREST EX-

PENSE.—The term ‘reported net interest ex-

pense’ means—

“(i) with respect to any international

financial reporting group for any reporting

year, the excess of—

“(I) the aggregate amount of in-

terest expense reported in such

group’s consolidated financial state-

ments for such taxable year, over

“(II) the aggregate amount of in-

terest income reported in such group’s

consolidated financial statements for

such taxable year, and

“(ii) with respect to any domestic cor-

poration for any reporting year, the excess

of—

“(I) the amount of interest ex-

pense of such corporation reported in

the books and records of the inter-
national financial reporting group
which are used in preparing such
group’s consolidated financial state-
ments for such taxable year, over
“(II) the amount of interest in-
come of such corporation reported in
such books and records.
“(C) Allocable share of reported
net interest expense.—With respect to any
domestic corporation which is a member of any
international financial reporting group, such
corporation’s allocable share of such group’s re-
ported net interest expense for any reporting
year is the portion of such expense which bears
the same ratio to such expense as—
“(i) the EBITDA of such corporation
for such reporting year, bears to
“(ii) the EBITDA of such group for
such reporting year.
“(D) EBITDA.—
“(i) In general.—The term
‘EBITDA’ means, with respect to any re-
porting year, earnings before interest,
taxes, depreciation, and amortization—
“(I) as determined in the international financial reporting group’s consolidated financial statements for such year, or

“(II) for purposes of subparagraph (A)(i), as determined in the books and records of the international financial reporting group which are used in preparing such statements if not determined in such statements.

“(ii) TREATMENT OF DISREGARDED ENTITIES.—The EBITDA of any domestic corporation shall not fail to include the EBITDA of any entity which is disregarded for purposes of this chapter.

“(iii) TREATMENT OF INTRA-GROUP DISTRIBUTIONS.—The EBITDA of any domestic corporation shall be determined without regard to any distribution received by such corporation from any other member of the international financial reporting group.

“(E) SPECIAL RULES FOR NON-POSITIVE EBITDA.—
“(i) NON-POSITIVE GROUP EBITDA.—
In the case of any international financial reporting group the EBITDA of which is zero or less, paragraph (1) shall not apply to any member of such group the EBITDA of which is above zero.

“(ii) NON-POSITIVE ENTITY EBITDA.—In the case of any group member the EBITDA of which is zero or less, paragraph (1) shall be applied without regard to subparagraph (A) thereof.

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

“(A) a financial statement which is certified as being prepared in accordance with generally accepted accounting principles, international financial reporting standards, or any other comparable method of accounting identified by the Secretary, and which is—

“(i) a 10–K (or successor form) or annual statement to shareholders required
to be filed with the United States Securities and Exchange Commission,

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

“(I) credit purposes,

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

“(III) any other substantial nontax purpose,

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

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

“(B) a financial statement which—

“(i) is used for a purpose described in subclause (I), (II), or (III) of subparagraph (A)(ii), or

“(ii) filed with any regulatory or governmental body (whether domestic or foreign) specified by the Secretary,

but only if there is no statement described in subparagraph (A).
“(5) Reporting year.—For purposes of this subsection, the term ‘reporting year’ means, with respect to any international financial reporting group, the year with respect to which the consolidated financial statements are prepared.

“(6) Application to certain entities.—

“(A) Partnerships.—The secretary shall prescribe rules for application of this subsection to any partnership which is a member of any international financial reporting group. Such rules shall treat any such partnership in a manner similar to the way such partnership would be treated under this subsection if it were a domestic corporation which is a member of any international financial reporting group.

“(B) Foreign corporations engaged in trade or business within the United States.—Except as otherwise provided by the Secretary in paragraph (7), any deduction for interest paid or accrued by a foreign corporation engaged in a trade or business within the United States shall be limited in a manner consistent with the principles of this subsection.

“(C) Consolidated groups.—For purposes of this subsection, the members of any
group that file (or are required to file) a consolidated return with respect to the tax imposed by chapter 1 for a taxable year shall be treated as a single corporation.

“(7) REGULATIONS.—The Secretary may issue such regulations or other guidance as are necessary or appropriate to carry out the purposes of this subsection.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 7. MODIFICATIONS TO RULES RELATING TO INVERTED CORPORATIONS.

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

“(b) INVERTED CORPORATIONS TREATED AS DOMESTIC CORPORATIONS.—

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

“(A) such corporation would be a surrogate foreign corporation if subsection (a)(2) were applied by substituting ‘80 percent’ for ‘60 percent’, or
“(B) such corporation is an inverted domestic corporation.

“(2) Inverted Domestic Corporation.—For purposes of this subsection, a foreign corporation shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

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

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

“(ii) substantially all of the assets of, or substantially all of the properties constituting a trade or business of, a domestic partnership, and

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

“(i) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or
“(ii) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership.

“(3) Exception for corporations with substantial business activities in foreign country of organization.—A foreign corporation described in paragraph (2) shall not be treated as an inverted domestic corporation if after the acquisition the expanded affiliated group which includes the entity has substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group. For purposes of subsection (a)(2)(B)(iii) and the preceding sentence, the term ‘substantial business activities’ shall have the meaning given such term under regulations in effect on May 8, 2014, except that the Secretary may issue regulations increasing the threshold percent in any of the tests under such regulations for determining if business activities constitute substantial business activities for purposes of this paragraph.”.

(b) Conforming Amendments.—

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

(A) in paragraph (2)—

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

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

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

(C) in paragraph (5), by striking “subsection (a)(2)(B)(ii)” and inserting “subsections (a)(2)(B)(ii) and (b)(2)(B),” and

(D) in paragraph (6), by inserting “or inverted domestic corporation, as the case may be,” after “surrogate foreign corporation”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after May 8, 2014.
SEC. 8. TREATMENT OF FOREIGN CORPORATIONS MANAGED AND CONTROLLED IN THE UNITED STATES AS DOMESTIC CORPORATIONS.

(a) IN GENERAL.—Section 7701 of the Internal Revenue Code of 1986 is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

“(p) CERTAIN CORPORATIONS MANAGED AND CONTROLLED IN THE UNITED STATES TREATED AS DOMESTIC FOR INCOME TAX.—

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

“(A) the corporation would not otherwise be treated as a domestic corporation for purposes of this title, but

“(B) the management and control of the corporation occurs, directly or indirectly, primarily within the United States,

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

“(2) CORPORATION DESCRIBED.—

“(A) IN GENERAL.—A corporation is described in this paragraph if—
“(i) the stock of such corporation is regularly traded on an established securities market, or
“(ii) the aggregate gross assets of such corporation (or any predecessor thereof), including assets under management for investors, whether held directly or indirectly, at any time during the taxable year or any preceding taxable year is $50,000,000 or more.

“(B) General exception.—A corporation shall not be treated as described in this paragraph if—
“(i) such corporation was treated as a corporation described in this paragraph in a preceding taxable year,
“(ii) such corporation—
“(I) is not regularly traded on an established securities market, and
“(II) has, and is reasonably expected to continue to have, aggregate gross assets (including assets under management for investors, whether held directly or indirectly) of less than $50,000,000, and
“(iii) the Secretary grants a waiver to such corporation under this subparagraph.

“(3) MANAGEMENT AND CONTROL.—

“(A) IN GENERAL.—The Secretary shall prescribe regulations for purposes of determining cases in which the management and control of a corporation is to be treated as occurring primarily within the United States.

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

“(i) the management and control of a corporation shall be treated as occurring primarily within the United States if substantially all of the executive officers and senior management of the corporation who exercise day-to-day responsibility for making decisions involving strategic, financial, and operational policies of the corporation are located primarily within the United States, and

“(ii) individuals who are not executive officers and senior management of the corporation (including individuals who are officers or employees of other corporations in
the same chain of corporations as the corporation) shall be treated as executive officers and senior management if such individuals exercise the day-to-day responsibilities of the corporation described in clause (i).

“(C) Corporations primarily holding investment assets.—Such regulations shall also provide that the management and control of a corporation shall be treated as occurring primarily within the United States if—

“(i) the assets of such corporation (directly or indirectly) consist primarily of assets being managed on behalf of investors, and

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

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning on or after the date which is 2 years after the date of the enactment of this Act.
SEC. 9. MODIFICATIONS TO BASE EROSION AND ANTI-
ABUSE TAX.

(a) ACCELERATION OF MODIFICATIONS.—Section 59A(b) of the Internal Revenue Code of 1986 is amended—

(1) in paragraph (1)(A), by striking “10 percent (5 percent in the case of taxable years begin-
ning in calendar year 2018)” and inserting “12.5 percent”,

(2) in paragraph (1)(B), by striking “by the ex-
cess of” and all that follows and inserting “by the aggregate amount of the credits allowed under this chapter against such regular tax liability.”,

(3) by striking paragraphs (2) and (4) and re-
designating paragraph (3) as paragraph (2), and

(4) in paragraph (2)(A) (as so redesignated), by striking “paragraphs (1)(A) and (2)(A) shall each” and inserting “paragraph (1)(A) shall”.

(b) MODIFICATIONS TO DEFINITION OF APPLICABLE TAXPAYER.—Section 59A(e)(1) of the Internal Revenue Code of 1986 is amended—

(1) by striking “$500,000,000” in subpara-
graph (B) and inserting “$25,000,000”, and

(2) by inserting “and” at the end of subpara-
graph (A), by striking “, and” at the end of sub-
paragraph (B) and inserting a period, and by strik-
ing subparagraph (C).

(c) Exceptions to Definition of Base Erosion

Payment.—Section 59A(d) of the Internal Revenue Code
of 1986 is amended by adding at the end the following
new paragraph:

“(6) Exception for certain payments includible in gross income of payee.—

“(A) In general.—Paragraph (1) shall not apply to any portion of an amount—

“(i) which is paid or accrued by the taxpayer to a foreign person who is a member of the same controlled group of corporations as the taxpayer, and

“(ii) which—

“(I) is treated by the foreign person as an amount of income from sources within the United States which is effectively connected with the conduct by such person of a trade or business within the United States, or

“(II) if the foreign person is a controlled foreign corporation, is in-

cluded in the income of a United States shareholder of such controlled
foreign corporation under section 951(a).

“(B) CONTROLLED GROUP OF CORPORATIONS.—For purposes of this paragraph, the term ‘controlled group of corporations’ has the same meaning given to such term by section 1563(a), except that—

“(i) ‘more than 50 percent’ shall be substituted for ‘at least 80 percent’ each place it appears in section 1563(a)(1), and

“(ii) the determination shall be made without regard to subsections (a)(4), (b)(2)(C), and (e)(3)(C) of section 1563.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning in calendar years beginning after the date of the enactment of this Act.

SEC. 10. MODIFICATIONS OF FOREIGN TAX CREDIT RULES APPLICABLE TO OIL, GAS, MINING, GAMBLING AND OTHER INDUSTRY TAXPAYERS RECEIVING SPECIFIC ECONOMIC BENEFITS.

(a) IN GENERAL.—Section 901 of the Internal Revenue Code of 1986 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:
“(n) Special Rules Relating to Dual Capacity Taxpayers.—

“(1) General rule.—Notwithstanding any other provision of this chapter, any amount paid or accrued by a dual capacity taxpayer to a foreign country or possession of the United States for any period shall not be considered a tax—

“(A) if, for such period, the foreign country or possession does not impose a generally applicable income tax, or

“(B) to the extent such amount exceeds the amount (determined in accordance with regulations) which—

“(i) is paid by such dual capacity taxpayer pursuant to the generally applicable income tax imposed by the country or possession, or

“(ii) would be paid if the generally applicable income tax imposed by the country or possession were applicable to such dual capacity taxpayer.

Nothing in this paragraph shall be construed to imply the proper treatment of any such amount not in excess of the amount determined under subparagraph (B).
“(2) Dual capacity taxpayer.—For purposes of this subsection, the term ‘dual capacity taxpayer’ means, with respect to any foreign country or possession of the United States, a person who—

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

“(B) receives (or will receive) directly or indirectly a specific economic benefit (as determined in accordance with regulations) from such country or possession.

“(3) Generally applicable income tax.—

For purposes of this subsection—

“(A) In general.—The term ‘generally applicable income tax’ means an income tax (or a series of income taxes) which is generally imposed under the laws of a foreign country or possession on income derived from the conduct of a trade or business within such country or possession.

“(B) Exceptions.—Such term shall not include a tax unless it has substantial application, by its terms and in practice, to—

“(i) persons who are not dual capacity taxpayers, and
“(ii) persons who are citizens or residents of the foreign country or possession.”

(b) Effective Date.—The amendments made by this section shall apply to taxes paid or accrued in taxable years beginning after the date of the enactment of this Act.

(c) Special Rule for Treaties.—Notwithstanding sections 894 or 7852(d) of the Internal Revenue Code of 1986, the amendments made by this section shall apply without regard to any treaty obligation of the United States.

SEC. 11. LIMITATIONS ON TREATY BENEFITS.

(a) Limitation for Certain Deductible Payments.—Section 894 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(d) Limitation on Treaty Benefits for Certain Deductible Payments.—

“(1) In general.—In the case of any deductible related-party payment, any withholding tax imposed under chapter 3 (and any tax imposed under subpart A or B of this part) with respect to such payment may not be reduced under any treaty of the United States unless any such withholding tax would
be reduced under a treaty of the United States if such payment were made directly to the foreign parent corporation.

“(2) DEDUCTIBLE RELATED-PARTY PAYMENT.—For purposes of this subsection, the term ‘deductible related-party payment’ means any payment made, directly or indirectly, by any person to any other person if the payment is allowable as a deduction under this chapter and both persons are members of the same foreign controlled group of entities.

“(3) FOREIGN CONTROLLED GROUP OF ENTITIES.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘foreign controlled group of entities’ means a controlled group of entities the common parent of which is a foreign corporation.

“(B) CONTROLLED GROUP OF ENTITIES.—The term ‘controlled group of entities’ means a controlled group of corporations as defined in section 1563(a)(1), except that—

“(i) ‘more than 50 percent’ shall be substituted for ‘at least 80 percent’ each place it appears therein, and
“(ii) the determination shall be made without regard to subsections (a)(4) and (b)(2) of section 1563.

A partnership or any other entity (other than a corporation) shall be treated as a member of a controlled group of entities if such entity is controlled (within the meaning of section 954(d)(3)) by members of such group (including any entity treated as a member of such group by reason of this sentence).

“(4) FOREIGN PARENT CORPORATION.—For purposes of this subsection, the term ‘foreign parent corporation’ means, with respect to any deductible related-party payment, the common parent of the foreign controlled group of entities referred to in paragraph (3)(A).

“(5) REGULATIONS.—The Secretary may prescribe such regulations or other guidance as are necessary or appropriate to carry out the purposes of this subsection, including regulations or other guidance which provide for—

“(A) the treatment of two or more persons as members of a foreign controlled group of entities if such persons would be the common par-
ent of such group if treated as one corporation, and

“(B) the treatment of any member of a foreign controlled group of entities as the common parent of such group if such treatment is appropriate taking into account the economic relationships among such entities.”.

(b) **LIMITATION FOR CERTAIN INCOME ATTRIBUTABLE TO PERMANENT ESTABLISHMENTS IN A THIRD COUNTRY.**—Section 894 of such Code, as amended by subsection (a), is amended by adding at the end the following new subsection:

“(e) **DENIAL OF TREATY BENEFITS WITH RESPECT TO CERTAIN INCOME ATTRIBUTABLE TO A PERMANENT ESTABLISHMENT IN A THIRD COUNTRY.**—A foreign person shall not be entitled under any income tax treaty of the United States with a foreign country to any exemption from, or reduction of, any tax with respect to income if—

“(1) such income is income from sources within the United States, and

“(2) such income is attributable to a permanent establishment which is outside of such foreign country and—

“(A) the profits of which are subject to a combined aggregate effective rate of tax in such
foreign country and the country of the permanent establishment that is less than the lesser of—

“(i) 15 percent, or

“(ii) 60 percent of the general statutory rate of tax on income on corporations in such foreign country, or

“(B) which is located in a foreign country with which the United States does not have an income tax treaty and is not taxed by the foreign country which is a party to the treaty.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after the date of the enactment of this Act.

(d) SPECIAL RULE FOR TREATIES.—Notwithstanding sections 894 or 7852(d) of the Internal Revenue Code of 1986, the amendments made by this section shall apply without regard to any treaty obligation of the United States.

SEC. 12. REPEAL OF DEDUCTION FOR FOREIGN-DERIVED INTANGIBLE INCOME.

(a) IN GENERAL.—Part VIII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by striking section 250 (and the item related to such section in the table of sections for such part).
(b) Conforming Amendments.—

(1) Section 172(d) of the Internal Revenue Code of 1986 is amended by striking paragraph (9).

(2) Section 246(b) of such Code is amended—

(A) by striking the comma after “section 243(a)(1)” the first place it appears and inserting “and” and by striking “and section 250”, and

(B) by inserting “and” after “section 243(a)(1)” the second place it appears and by striking “, and 250”.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2024.