

1 **SEC. 9. TAX BENEFITS DISALLOWED IN CASE OF INVERTED**
2 **CORPORATIONS.**

3 (a) IN GENERAL.—In the case of a taxpayer which
4 is, or is a member of an expanded affiliated group which
5 includes, an applicable inverted corporation, the Internal
6 Revenue Code of 1986 shall be applied and administered
7 as if the provisions of, and amendments made by, this Act
8 (other than this section) had never been enacted.

9 (b) APPLICABLE INVERTED CORPORATIONS.—

10 (1) IN GENERAL.—For purposes of this section,
11 the term “applicable inverted corporation” means
12 any foreign corporation which—

13 (A) would be a surrogate foreign corpora-
14 tion under subsection (a)(2) of section 7874 of
15 the Internal Revenue Code of 1986 if such sub-
16 section were applied by substituting “80 per-
17 cent” for “60 percent”, or

18 (B) is an inverted domestic corporation.

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

24 (A) the entity completes after May 8,
25 2014, the direct or indirect acquisition of—

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

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

8 (B) after the acquisition, either—

9 (i) more than 50 percent of the stock
10 (by vote or value) of the entity is held—

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

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

23 (ii) the management and control of
24 the expanded affiliated group which in-
25 cludes the entity occurs, directly or indi-

1 rectly, primarily within the United States,
2 and such expanded affiliated group has
3 significant domestic business activities.

4 (3) EXCEPTION FOR CORPORATIONS WITH SUB-
5 STANTIAL BUSINESS ACTIVITIES IN FOREIGN COUN-
6 TRY OF ORGANIZATION.—A foreign corporation de-
7 scribed in paragraph (2) shall not be treated as an
8 inverted domestic corporation if after the acquisition
9 the expanded affiliated group which includes the en-
10 tity has substantial business activities in the foreign
11 country in which or under the law of which the enti-
12 ty is created or organized when compared to the
13 total business activities of such expanded affiliated
14 group. For purposes of applying section
15 7874(a)(2)(B)(iii) of the Internal Revenue Code of
16 1986 and the preceding sentence, the term “sub-
17 stantial business activities” shall have the meaning
18 given such term under Treasury regulations in effect
19 on May 8, 2014, except that the Secretary of the
20 Treasury may issue regulations increasing the
21 threshold percent in any of the tests under such reg-
22 ulations for determining if business activities con-
23 stitute substantial business activities for purposes of
24 this paragraph.

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

3 (A) IN GENERAL.—The Secretary of the
4 Treasury shall prescribe regulations for pur-
5 poses of determining cases in which the man-
6 agement and control of an expanded affiliated
7 group is to be treated as occurring, directly or
8 indirectly, primarily within the United States.
9 The regulations prescribed under the preceding
10 sentence shall apply to periods after May 8,
11 2014.

12 (B) EXECUTIVE OFFICERS AND SENIOR
13 MANAGEMENT.—Such regulations shall provide
14 that the management and control of an ex-
15 panded affiliated group shall be treated as oc-
16 curring, directly or indirectly, primarily within
17 the United States if substantially all of the ex-
18 ecutive officers and senior management of the
19 expanded affiliated group who exercise day-to-
20 day responsibility for making decisions involving
21 strategic, financial, and operational policies of
22 the expanded affiliated group are based or pri-
23 marily located within the United States. Indi-
24 viduals who in fact exercise such day-to-day re-
25 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 by
10 the group is incurred with respect to employees
11 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 May 8, 2014, but
20 applied by treating all references in such regulations
21 to “foreign country” and “relevant foreign country”
22 as references to “the United States”. The Secretary
23 of the Treasury may issue regulations decreasing the
24 threshold percent in any of the tests under such reg-
25 ulations for determining if business activities con-

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

3 (c) DEFINITIONS.—For purposes of this section, the
4 terms “domestic corporation”, “foreign corporation”, and
5 “expanded affiliated group” shall each have the same
6 meaning as when used in section 7874 of the Internal Rev-
7 enue Code of 1986.

