

115TH CONGRESS  
1ST SESSION

# S. 1673

To amend the Internal Revenue Code to include in income the unrepatriated earnings of groups that include an inverted corporation.

---

## IN THE SENATE OF THE UNITED STATES

JULY 31, 2017

Mr. BROWN (for himself, Mr. DURBIN, and Mr. VAN HOLLEN) introduced the following bill; which was read twice and referred to the Committee on Finance

---

## A BILL

To amend the Internal Revenue Code to include in income the unrepatriated earnings of groups that include an inverted corporation.

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 “Pay What You Owe  
5 Before You Go Act”.

6 **SEC. 2. RECAPTURE OF UNREPATRIATED EARNINGS OF**  
7 **GROUPS INCLUDING AN INVERTED COR-**  
8 **PORATION.**

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) RECAPTURE OF TAX ON UNREPATRIATED  
4 EARNINGS.—

5 “(1) IN GENERAL.—The subpart F income of  
6 any applicable controlled foreign corporation for its  
7 last taxable year ending before the acquisition date  
8 shall be increased by the accumulated deferred for-  
9 eign income of the corporation.

10 “(2) APPLICABLE CONTROLLED FOREIGN COR-  
11 PORATION.—For purposes of this subsection—

12 “(A) IN GENERAL.—The term ‘applicable  
13 controlled foreign corporation’ means any con-  
14 trolled foreign corporation with respect to  
15 which—

16 “(i) a covered entity was a United  
17 States shareholder at any time during the  
18 5-year period ending on the acquisition  
19 date, or

20 “(ii) a member of the same expanded  
21 affiliated group as a covered entity was a  
22 United States shareholder at any time dur-  
23 ing the 5-year period ending on the acqui-  
24 sition date.

1           “(B) COVERED ENTITY.—The term ‘cov-  
2           ered entity’ means, with respect to a controlled  
3           foreign corporation, any entity which—

4                   “(i) is treated as a surrogate foreign  
5                   corporation under subsection (a)(2)(B), de-  
6                   termined—

7                           “(I) by substituting ‘July 24,  
8                           2017’ for ‘March 4, 2003’ each place  
9                           it appears,

10                           “(II) by substituting ‘more than  
11                           50 percent’ for ‘at least 60 percent’ in  
12                           clause (ii) thereof, and

13                           “(III) by disregarding clause (iii)  
14                           thereof, and

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

17           “(3) ACCUMULATED DEFERRED FOREIGN IN-  
18           COME.—For purposes of this section—

19                   “(A) IN GENERAL.—The term ‘accumu-  
20                   lated deferred foreign income’ means the excess  
21                   of—

22                           “(i) the undistributed earnings of the  
23                           controlled foreign corporation, over

24                           “(ii) the undistributed U.S. earnings  
25                           of such controlled foreign corporation.

1           “(B) UNDISTRIBUTED EARNINGS.—The  
2 term ‘undistributed earnings’ means the earn-  
3 ings and profits of the controlled foreign cor-  
4 poration described in section 959(c)(3), deter-  
5 mined—

6           “(i) as of the close of the taxable year  
7 described in paragraph (1),

8           “(ii) without diminution by reason of  
9 distributions made during such taxable  
10 year, and

11           “(iii) without regard to this sub-  
12 section.

13 For purposes of this chapter, any determination  
14 with respect to the treatment of distributions  
15 described in clause (ii) shall be made after the  
16 application of this subsection to the earnings  
17 and profits described in the matter preceding  
18 clause (i).

19           “(C) UNDISTRIBUTED U.S. EARNINGS.—  
20 The term ‘undistributed U.S. earnings’ has the  
21 meaning given the term ‘post-1986 undistrib-  
22 uted U.S. earnings’ in section 245(a)(5), deter-  
23 mined—

24           “(i) as of the close of the taxable year  
25 described in paragraph (1), and

1                   “(ii) without regard to ‘post-1986’  
2                   each place it appears in the matter before  
3                   subparagraph (A).

4                   “(4) ACQUISITION DATE.—For purposes of this  
5                   section, the term ‘acquisition date’ means the date  
6                   the covered entity completes the acquisition de-  
7                   scribed in subsection (a)(2)(B)(i) (after the applica-  
8                   tion of paragraph (2)(B)(i) of this subsection).”.

9                   (b) EFFECTIVE DATE.—The amendments made by  
10                  this section shall apply with respect to taxable years end-  
11                  ing after July 24, 2017.

○