

**AMENDMENT TO RULES COMM PRINT 114–51**

**OFFERED BY MS. SPEIER OF CALIFORNIA**

At the end of subtitle B of title XXVIII (page 877, after line 25), add the following new section:

1 **SEC. 2817. PROHIBITION ON INVERTED CORPORATIONS**  
2 **THAT AVOID UNITED STATES TAXES FROM**  
3 **OPERATING ON MILITARY INSTALLATIONS.**

4 (a) PROHIBITION.—Chapter 159 of title 10, United  
5 States Code, is amended by inserting after section 2672  
6 the following new section:

7 **“§ 2673. Military reservations and facilities: prohibi-**  
8 **tion on use by inverted corporations**

9 “(a) PROHIBITION.—With respect to each military  
10 installation or facility under the jurisdiction of a military  
11 department, the Secretary concerned may not permit an  
12 inverted corporation, including any franchise of an in-  
13 verted corporation, from operating from a physical loca-  
14 tion within the installation or facility.

15 “(b) INVERTED CORPORATION DEFINED.—

16 “(1) IN GENERAL.—In this section, the term  
17 ‘inverted corporation’ means any foreign corporation  
18 which—

1           “(A) would be a surrogate foreign corpora-  
2           tion under subsection (a)(2) of section 7874 of  
3           the Internal Revenue Code of 1986 if such sub-  
4           section were applied by substituting ‘80 per-  
5           cent’ for ‘60 percent’, or

6           “(B) is an inverted domestic corporation  
7           described in paragraph (2).

8           “(2) INVERTED DOMESTIC CORPORATION.—For  
9           purposes of this subsection, a foreign corporation  
10          shall be treated as an inverted domestic corporation  
11          if, pursuant to a plan (or a series of related trans-  
12          actions)—

13           “(A) the entity completes after May 8,  
14          2014, the direct or indirect acquisition of—

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

18           “(ii) substantially all of the assets of,  
19           or substantially all of the properties consti-  
20           tuting a trade or business of, a domestic  
21           partnership, and

22          “(B) after the acquisition, either—

23           “(i) more than 50 percent of the stock  
24           (by vote or value) of the entity is held—

1                   “(I) in the case of an acquisition  
2                   with respect to a domestic corpora-  
3                   tion, by former shareholders of the  
4                   domestic corporation by reason of  
5                   holding stock in the domestic corpora-  
6                   tion, or

7                   “(II) in the case of an acquisition  
8                   with respect to a domestic partner-  
9                   ship, by former partners of the do-  
10                  mestic partnership by reason of hold-  
11                  ing a capital or profits interest in the  
12                  domestic partnership, or

13                  “(ii) the management and control of  
14                  the expanded affiliated group which in-  
15                  cludes the entity occurs, directly or indi-  
16                  rectly, primarily within the United States,  
17                  and such expanded affiliated group has  
18                  significant domestic business activities.

19                  “(3) EXCEPTION FOR CORPORATIONS WITH  
20                  SUBSTANTIAL BUSINESS ACTIVITIES IN FOREIGN  
21                  COUNTRY OF ORGANIZATION.—A foreign corporation  
22                  described in paragraph (2) shall not be treated as an  
23                  inverted domestic corporation if after the acquisition  
24                  the expanded affiliated group which includes the en-  
25                  tity has substantial business activities in the foreign

1 country in which or under the law of which the enti-  
2 ty is created or organized when compared to the  
3 total business activities of such expanded affiliated  
4 group. For purposes of applying section  
5 7874(a)(2)(B)(iii) of the Internal Revenue Code of  
6 1986 and the preceding sentence, the term ‘substan-  
7 tial business activities’ shall have the meaning given  
8 such term under Treasury regulations in effect on  
9 May 8, 2014, except that the Secretary of the Treas-  
10 ury may issue regulations increasing the threshold  
11 percent in any of the tests under such regulations  
12 for determining if business activities constitute sub-  
13 stantial business activities for purposes of this para-  
14 graph.

15 “(4) MANAGEMENT AND CONTROL.—

16 “(A) IN GENERAL.—For purposes of para-  
17 graph (2)(B)(ii), the Secretary of the Treasury  
18 shall prescribe regulations for purposes of de-  
19 termining cases in which the management and  
20 control of an expanded affiliated group is to be  
21 treated as occurring, directly or indirectly, pri-  
22 marily within the United States. The regula-  
23 tions prescribed under the preceding sentence  
24 shall apply to periods after May 8, 2014.

1           “(B) EXECUTIVE OFFICERS AND SENIOR  
2           MANAGEMENT.—The regulations required by  
3           subparagraph (A) shall provide that the man-  
4           agement and control of an expanded affiliated  
5           group shall be treated as occurring, directly or  
6           indirectly, primarily within the United States if  
7           substantially all of the executive officers and  
8           senior management of the expanded affiliated  
9           group who exercise day-to-day responsibility for  
10          making decisions involving strategic, financial,  
11          and operational policies of the expanded affili-  
12          ated group are based or primarily located with-  
13          in the United States. Individuals who in fact  
14          exercise such day-to-day responsibilities shall be  
15          treated as executive officers and senior manage-  
16          ment regardless of their title.

17          “(5) SIGNIFICANT DOMESTIC BUSINESS ACTIVI-  
18          TIES.—

19                 “(A) IN GENERAL.—For purposes of para-  
20                 graph (2)(B)(ii), an expanded affiliated group  
21                 has significant domestic business activities if at  
22                 least 25 percent of—

23                         “(i) the employees of the group are  
24                         based in the United States,

1           “(ii) the employee compensation in-  
2           curred by the group is incurred with re-  
3           spect to employees based in the United  
4           States,

5           “(iii) the assets of the group are lo-  
6           cated in the United States, or

7           “(iv) the income of the group is de-  
8           rived in the United States.

9           “(B) DETERMINATION.—A determination  
10          required by subparagraph (A) shall be made in  
11          the same manner as such determinations are  
12          made for purposes of determining substantial  
13          business activities under regulations referred to  
14          in paragraph (3) as in effect on May 8, 2014,  
15          but applied by treating all references in such  
16          regulations to ‘foreign country’ and ‘relevant  
17          foreign country’ as references to ‘the United  
18          States’. The Secretary of the Treasury may  
19          issue regulations decreasing the threshold per-  
20          cent in any of the tests under such regulations  
21          for determining if business activities constitute  
22          significant domestic business activities for pur-  
23          poses of this paragraph.

24          “(6) OTHER DEFINITIONS.—In this subsection,  
25          the terms ‘domestic corporation’, ‘foreign corpora-

1       tion’, and ‘expanded affiliated group’ shall each have  
2       the same meaning as when used in section 7874 of  
3       the Internal Revenue Code of 1986.”.

4       (b) CLERICAL AMENDMENT.—The table of sections  
5       at the beginning of chapter 159 of such title is amended  
6       by inserting after the item relating to section 2672 the  
7       following new item:

“2673. Military reservations and facilities: prohibition on use by inverted cor-  
      porations.”.

