Amendment to the Amendment in the Nature of a Substitute to H.R. 1
Offered by Mr. Brady of Texas

The amendment makes improvements to the amendment in the nature of a substitute relating to the exclusion from income for employer-provided dependent care assistance, protects the integrity of the Earned Income Tax Credit program, focuses the excise tax on net investment income of educational institutions on application to institutions with endowment assets of at least $250,000 per student, ensures that other changes in the bill do not disturb the characterization for tax purposes of income earned by songwriters when they sell their catalogue of compositions, ensures that employees of start-up companies can share in the success of the business they are helping to build by better aligning the recognition of stock-based compensation for tax purposes, imposes an additional holding period requirement with respect to gains on a carried interest, and better tailors the bill's international base erosion rules.
AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 1
OFFERED BY MR. BRADY OF TEXAS

In section 1005(a), redesignate paragraphs (1) through (37) as paragraphs (3) through (39), respectively, and insert before such paragraph (3) (as so redesignated) the following:

(1) Section 32(b)(2)(B)(ii)(II) is amended by striking "section 1(f)(3) for the calendar year in which the taxable year begins determined by substituting 'calendar year 2008' for 'calendar year 1992' in subparagraph (B) thereof" and inserting "section 1(e)(2)(A) for the calendar year in which the taxable year begins determined by substituting 'calendar year 2008' for 'calendar year 2016' in clause (ii) thereof".

(2) Section 32(j)(1)(B) is amended—

(A) in the matter preceding clause (i), by striking "section 1(f)(3)" and inserting "section 1(e)(2)(A)",

(B) in clause (i), by striking "for 'calendar year 1992' in subparagraph (B) thereof" and
inserting "for 'calendar year 2016' in clause (ii) thereof", and

(C) in clause (ii), by striking "for 'calendar year 1992' in subparagraph (B) of such section 1" and inserting "for 'calendar year 2016' in clause (ii) thereof".

Page 76, after line 20, insert the following:

SEC. 1104. PROCEDURES TO REDUCE IMPROPER CLAIMS OF EARNED INCOME CREDIT.

(a) CLARIFICATION REGARDING DETERMINATION OF SELF-EMPLOYMENT INCOME WHICH IS TREATED AS EARNED INCOME.—Section 32(c)(2)(B) is amended by striking "and" at the end of clause (v), by striking the period at the end of clause (vi) and inserting ", and", and by adding at the end the following new clause:

"(vii) in determining the taxpayer's net earnings from self-employment under subparagraph (A)(ii) there shall not fail to be taken into account any deduction which is allowable to the taxpayer under this subtitle."

(b) REQUIRED QUARTERLY REPORTING OF WAGES OF EMPLOYEES.—Section 6011 is amended by adding at the end the following new subsection:
“(i) Employer Reporting of Wages.—Every person required to deduct and withhold from an employee a tax under section 3101 or 3402 shall include on each return or statement submitted with respect to such tax, the name and address of such employee and the amount of wages for such employee on which such tax was withheld.”

(c) Effective Date.—

(1) In General.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

(2) Reporting.—The Secretary of the Treasury, or his designee, may delay the application of the amendment made by subsection (b) for such period as such Secretary (or designee) determines to be reasonable to allow persons adequate time to modify electronic (or other) systems to permit such person to comply with the requirements of such amendment.

SEC. 1105. CERTAIN INCOME DISALLOWED FOR PURPOSES OF THE EARNED INCOME TAX CREDIT.

(a) Substantiation Requirement.—Section 32 is amended by adding at the end the following new sub-section:
"(n) INCONSISTENT INCOME REPORTING.—If the earned income of a taxpayer claimed on a return for purposes of this section is not substantiated by statements or returns under sections 6051, 6052, 6041(a), or 6050W with respect to such taxpayer, the Secretary may require such taxpayer to provide books and records to substantiate such income, including for the purpose of preventing fraud."

(b) EXCLUSION OF UNSUBSTANTIATED AMOUNT FROM EARNED INCOME.—Section 32(e)(2) is amended by adding at the end the following new subparagraph:

"(C) EXCLUSION.—In the case of a taxpayer with respect to which there is an inconsistency described in subsection (n) who fails to substantiate such inconsistency to the satisfaction of the Secretary, the term ‘earned income’ shall not include amounts to the extent of such inconsistency."

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

Page 138, strike line 19, and all that follows through page 139, line 24, and insert the following:
SEC. 1404. SUNSET OF EXCLUSION FOR DEPENDENT CARE ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Section 129 is amended by adding at the end the following new subsection:

“(f) TERMINATION.—Subsection (a) shall not apply to taxable years beginning after December 31, 2022.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

Page 246, strike lines 7 through 20, and insert the following:

(b) CONFORMING AMENDMENT.—Section 1231(b)(1)(C) is amended by inserting “a patent, invention, model or design (whether or not patented), a secret formula or process,” before “a copyright”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions after December 31, 2017.

Page 248, after line 3, insert the following:
SEC. 3314. RECHARACTERIZATION OF CERTAIN GAINS IN
THE CASE OF PARTNERSHIP PROFITS INTER-
ESTS HELD IN CONNECTION WITH PERFORM-
ANCE OF INVESTMENT SERVICES.
(a) In General.—Part IV of subchapter O of chap-
ter 1 is amended—
(1) by redesignating section 1061 as section
1062, and
(2) by inserting after section 1060 the following
new section:
"SEC. 1061. PARTNERSHIP INTERESTS HELD IN CONNEC-
TION WITH PERFORMANCE OF SERVICES.
“(a) In General.—If one or more applicable part-
nership interests are held by a taxpayer at any time during
the taxable year, the excess (if any) of—
“(1) the taxpayer’s net long-term capital gain
with respect to such interests for such taxable year,
over
“(2) the taxpayer’s net long-term capital gain
with respect to such interests for such taxable year
computed by applying paragraphs (3) and (4) of sec-
tions 1222 by substituting ‘3 years’ for ‘1 year’,
shall be treated as short-term capital gain.
“(b) Special Rule.—To the extent provided by the
Secretary, subsection (a) shall not apply to income or gain
attributable to any asset not held for portfolio investment on behalf of third party investors.

"(c) APPLICABLE PARTNERSHIP INTEREST.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in this paragraph or paragraph (4), the term ‘applicable partnership interest’ means any interest in a partnership which, directly or indirectly, is transferred to (or is held by) the taxpayer in connection with the performance of substantial services by the taxpayer, or any other related person, in any applicable trade or business. The previous sentence shall not apply to an interest held by a person who is employed by another entity that is conducting a trade or business (other than an applicable trade or business) and only provides services to such other entity.

"(2) APPLICABLE TRADE OR BUSINESS.—The term ‘applicable trade or business’ means any activity conducted on a regular, continuous, and substantial basis which, regardless of whether the activity is conducted in one or more entities, consists, in whole or in part, of—

"(A) raising or returning capital, and

"(B) either—
“(i) investing in (or disposing of) specified assets (or identifying specified assets for such investing or disposition), or

“(ii) developing specified assets.

“(3) SPECIFIED ASSET.—The term ‘specified asset’ means securities (as defined in section 475(e)(2) without regard to the last sentence thereof), commodities (as defined in section 475(e)(2)), real estate held for rental or investment, cash or cash equivalents, options or derivative contracts with respect to any of the foregoing, and an interest in a partnership to the extent of the partnership’s proportionate interest in any of the foregoing.

“(4) EXCEPTIONS.—The term ‘applicable partnership interest’ shall not include—

“(A) any interest in a partnership directly or indirectly held by a corporation, or

“(B) any capital interest in the partnership which provides the taxpayer with a right to share in partnership capital commensurate with—

“(i) the amount of capital contributed

(determined at the time of receipt of such partnership interest), or
“(ii) the value of such interest subject
to tax under section 83 upon the receipt or
vesting of such interest.

“(5) THIRD PARTY INVESTOR.—The term ‘third
party investor’ means a person who—

“(A) holds an interest in the partnership
which does not constitute property held in con-
nection with an applicable trade or business;
and

“(B) is not (and has not been) actively en-
gaged, and is (and was) not related to a person
so engaged, in (directly or indirectly) providing
substantial services described in paragraph (1)
for such partnership or any applicable trade or
business.

“(d) TRANSFER OF APPLICABLE PARTNERSHIP IN-
TEREST TO RELATED PERSON.—

“(1) IN GENERAL.—If a taxpayer transfers any
applicable partnership interest, directly or indirectly,
to a person related to the taxpayer, the taxpayer
shall include in gross income (as short term capital
gain) the excess (if any) of—

“(A) so much of the taxpayer’s long-term
capital gains with respect to such interest for
such taxable year attributable to the sale or ex-
change of any asset held for not more than 3 years as is allocable to such interest, over

“(B) any amount treated as short term capital gain under subsection (a) with respect to the transfer of such interest.

“(2) RELATED PERSON.—For purposes of this paragraph, a person is related to the taxpayer if—

“(A) the person is a member of the taxpayer’s family within the meaning of section 318(a)(1), or

“(B) the person performed a service within the current calendar year or the preceding three calendar years in any applicable trade or business in which or for which the taxpayer performed a service.

“(e) REPORTING.—The Secretary shall require such reporting (at the time and in the manner prescribed by the Secretary) as is necessary to carry out the purposes of this section.

“(f) REGULATIONS.—The Secretary shall issue such regulations or other guidance as is necessary or appropriate to carry out the purposes of this section”.

(b) COORDINATION WITH SECTION 83.—Subsection (e) of section 83 is amended by striking “or” at the end of paragraph (4), by striking the period at the end of para-
graph (5) and inserting "", or", and by adding at the end
the following new paragraph:

"(6) a transfer of an applicable partnership in-
terest to which section 1061 applies.''.

(c) CLERICAL AMENDMENT.—The table of sections
for part IV of subchapter O of chapter 1 is amended by
striking the item relating to 1061 and inserting the fol-
lowing new items:

"Sec. 1061. Partnership interests held in connection with performance of serv-
ces.
"Sec. 1062. Cross references.''.

(d) EFFECTIVE DATE.—The amendments made by
this section shall apply to taxable years beginning after
December 31, 2017.

Page 309, after line 21, insert the following:

SEC. 3804. TREATMENT OF QUALIFIED EQUITY GRANTS.

(a) IN GENERAL.—

(1) ELECTION TO DEFER INCOME.—Section 83
is amended by adding at the end the following new
subsection:

"(i) QUALIFIED EQUITY GRANTS.—

"(1) IN GENERAL.—For purposes of this sub-
title, if qualified stock is transferred to a qualified
employee who makes an election with respect to such
stock under this subsection—
“(A) except as provided in subparagraph (B), no amount shall be included in income under subsection (a) for the first taxable year in which the rights of the employee in such stock are transferable or are not subject to a substantial risk of forfeiture, whichever is applicable, and

“(B) an amount equal to the amount which would be included in income of the employee under subsection (a) (determined without regard to this subsection) shall be included in income for the taxable year of the employee which includes the earliest of—

“(i) the first date such qualified stock becomes transferable (including transferable to the employer),

“(ii) the date the employee first becomes an excluded employee,

“(iii) the first date on which any stock of the corporation which issued the qualified stock becomes readily tradable on an established securities market (as determined by the Secretary, but not including any market unless such market is recognized as an established securities market
by the Secretary for purposes of a provision of this title other than this subsection),

"(iv) the date that is 5 years after the first date the rights of the employee in such stock are transferable or are not subject to a substantial risk of forfeiture, whichever occurs earlier, or

"(v) the date on which the employee revokes (at such time and in such manner as the Secretary may provide) the election under this subsection with respect to such stock.

"(2) QUALIFIED STOCK.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'qualified stock' means, with respect to any qualified employee, any stock in a corporation which is the employer of such employee, if—

"(i) such stock is received—

"(I) in connection with the exercise of an option, or

"(II) in settlement of a restricted stock unit, and
“(ii) such option or restricted stock unit was provided by the corporation—

“(I) in connection with the performance of services as an employee, and

“(II) during a calendar year in which such corporation was an eligible corporation.

“(B) LIMITATION.—The term ‘qualified stock’ shall not include any stock if the employee may sell such stock to, or otherwise receive cash in lieu of stock from, the corporation at the time that the rights of the employee in such stock first become transferable or not subject to a substantial risk of forfeiture.

“(C) ELIGIBLE CORPORATION.—For purposes of subparagraph (A)(ii)(II)—

“(i) IN GENERAL.—The term ‘eligible corporation’ means, with respect to any calendar year, any corporation if—

“(I) no stock of such corporation (or any predecessor of such corporation) is readily tradable on an established securities market (as determined under paragraph (1)(B)(iii))
during any preceding calendar year, and

"(II) such corporation has a written plan under which, in such calendar year, not less than 80 percent of all employees who provide services to such corporation in the United States (or any possession of the United States) are granted stock options, or restricted stock units, with the same rights and privileges to receive qualified stock.

"(ii) SAME RIGHTS AND PRIVILEGES.—For purposes of clause (i)(II)—

"(I) except as provided in subclauses (II) and (III), the determination of rights and privileges with respect to stock shall be determined in a similar manner as provided under section 423(b)(5),

"(II) employees shall not fail to be treated as having the same rights and privileges to receive qualified stock solely because the number of shares available to all employees is not
equal in amount, so long as the number of shares available to each employee is more than a de minimis amount, and

"(III) rights and privileges with respect to the exercise of an option shall not be treated as the same as rights and privileges with respect to the settlement of a restricted stock unit.

"(iii) EMPLOYEE.—For purposes of clause (i)(II), the term ‘employee’ shall not include any employee described in section 4980E(d)(4) or any excluded employee.

"(iv) SPECIAL RULE FOR CALENDAR YEARS BEFORE 2018.—In the case of any calendar year beginning before January 1, 2018, clause (i)(II) shall be applied without regard to whether the rights and privileges with respect to the qualified stock are the same.

"(3) QUALIFIED EMPLOYEE; EXCLUDED EMPLOYEE.—For purposes of this subsection—

"(A) IN GENERAL.—The term ‘qualified employee’ means any individual who—
“(i) is not an excluded employee, and
“(ii) agrees in the election made under this subsection to meet such require-ments as determined by the Secretary to be necessary to ensure that the with-holding requirements of the corporation under chapter 24 with respect to the qual-ified stock are met.

“(B) EXCLUDED EMPLOYEE.—The term ‘excluded employee’ means, with respect to any corporation, any individual—
“(i) who was a 1-percent owner (within the meaning of section 416(i)(1)(B)(ii)) at any time during the 10 preceeding cal-endar years,
“(ii) who is or has been at any prior time—
“(I) the chief executive officer of such corporation or an individual act-ing in such a capacity, or
“(II) the chief financial officer of such corporation or an individual act-ing in such a capacity,
“(iii) who bears a relationship de-scribed in section 318(a)(1) to any indi-
vidual described in subclause (I) or (II) of clause (ii), or

"(iv) who has been for any of the 10 preceding taxable years one of the 4 highest compensated officers of such corporation determined with respect to each such taxable year on the basis of the shareholder disclosure rules for compensation under the Securities Exchange Act of 1934 (as if such rules applied to such corporation).

"(4) ELECTION.—

"(A) TIME FOR MAKING ELECTION.—An election with respect to qualified stock shall be made under this subsection no later than 30 days after the first time the rights of the employee in such stock are transferable or are not subject to a substantial risk of forfeiture, whichever occurs earlier, and shall be made in a manner similar to the manner in which an election is made under subsection (b).

"(B) LIMITATIONS.—No election may be made under this section with respect to any qualified stock if—
"(i) the qualified employee has made an election under subsection (b) with respect to such qualified stock,

"(ii) any stock of the corporation which issued the qualified stock is readily tradable on an established securities market (as determined under paragraph (1)(B)(iii)) at any time before the election is made, or

"(iii) such corporation purchased any of its outstanding stock in the calendar year preceding the calendar year which includes the first time the rights of the employee in such stock are transferable or are not subject to a substantial risk of forfeiture, unless—

"(I) not less than 25 percent of the total dollar amount of the stock so purchased is deferral stock, and

"(II) the determination of which individuals from whom deferral stock is purchased is made on a reasonable basis.
"(C) DEFINITIONS AND SPECIAL RULES RELATED TO LIMITATION ON STOCK REDEMPTIONS.—

"(i) DEFERRAL STOCK.—For purposes of this paragraph, the term ‘deferral stock’ means stock with respect to which an election is in effect under this subsection.

"(ii) DEFERRAL STOCK WITH RESPECT TO ANY INDIVIDUAL NOT TAKEN INTO ACCOUNT IF INDIVIDUAL HOLDS DEFERRAL STOCK WITH LONGER DEFERRAL PERIOD.—Stock purchased by a corporation from any individual shall not be treated as deferral stock for purposes of clause (iii) if such individual (immediately after such purchase) holds any deferral stock with respect to which an election has been in effect under this subsection for a longer period than the election with respect to the stock so purchased.

"(iii) PURCHASE OF ALL OUTSTANDING DEFERRAL STOCK.—The requirements of subclauses (I) and (II) of subparagraph (B)(iii) shall be treated as
met if the stock so purchased includes all
of the corporation's outstanding deferral
stock.

"(iv) REPORTING.—Any corporation
which has outstanding deferral stock as of
the beginning of any calendar year and
which purchases any of its outstanding
stock during such calendar year shall in-
clude on its return of tax for the taxable
year in which, or with which, such calendar
year ends the total dollar amount of its
outstanding stock so purchased during
such calendar year and such other infor-
mation as the Secretary may require for
purposes of administering this paragraph.

"(5) CONTROLLED GROUPS.—For purposes of
this subsection, all corporations which are members
of the same controlled group of corporations (as de-
defined in section 1563(a)) shall be treated as one cor-
poration.

"(6) NOTICE REQUIREMENT.—Any corporation
that transfers qualified stock to a qualified employee
shall, at the time that (or a reasonable period be-
fore) an amount attributable to such stock would
(but for this subsection) first be includible in the gross income of such employee—

“(A) certify to such employee that such stock is qualified stock, and

“(B) notify such employee—

“(i) that the employee may elect to defer income on such stock under this subsection, and

“(ii) that, if the employee makes such an election—

“(I) the amount of income recognized at the end of the deferral period will be based on the value of the stock at the time at which the rights of the employee in such stock first become transferable or not subject to substantial risk of forfeiture, notwithstanding whether the value of the stock has declined during the deferral period,

“(II) the amount of such income recognized at the end of the deferral period will be subject to withholding under section 3401(i) at the rate determined under section 3402(t), and
“(III) the responsibilities of the employee (as determined by the Secretary under paragraph (3)(A)(ii)) with respect to such withholding.”.

(2) DEDUCTION BY EMPLOYER.—Subsection (h) of section 83 is amended by striking “or (d)(2)” and inserting “(d)(2), or (i)”.

(b) WITHHOLDING.—

(1) TIME OF WITHHOLDING.—Section 3401 is amended by adding at the end the following new subsection:

“(i) QUALIFIED STOCK FOR WHICH AN ELECTION IS IN EFFECT UNDER SECTION 83(i).—For purposes of subsection (a), qualified stock (as defined in section 83(i)) with respect to which an election is made under section 83(i) shall be treated as wages—

“(1) received on the earliest date described in section 83(i)(1)(B), and

“(2) in an amount equal to the amount included in income under section 83 for the taxable year which includes such date.”.

(2) AMOUNT OF WITHHOLDING.—Section 3402 is amended by adding at the end the following new subsection:
“(t) RATE OF WITHHOLDING FOR CERTAIN STOCK.—In the case of any qualified stock (as defined in section 83(i)) with respect to which an election is made under section 83(i)—

“(1) the rate of tax under subsection (a) shall not be less than the maximum rate of tax in effect under section 1, and

“(2) such stock shall be treated for purposes of section 3501(b) in the same manner as a non-cash fringe benefit.”.

(c) COORDINATION WITH OTHER DEFERRED COMPENSATION RULES.—

(1) ELECTION TO APPLY DEFERRAL TO STATUTORY OPTIONS.—

(A) INCENTIVE STOCK OPTIONS.—Section 422(b) is amended by adding at the end the following: “Such term shall not include any option if an election is made under section 83(i) with respect to the stock received in connection with the exercise of such option.”.

(B) EMPLOYEE STOCK PURCHASE PLANS.—Section 423(a) is amended by adding at the end the following flush sentence:
"The preceding sentence shall not apply to any share of stock with respect to which an election is made under section 83(i).”.

(2) EXCLUSION FROM DEFINITION OF NON-QUALIFIED DEFERRED COMPENSATION PLAN.—Section 409B(b), as added by this Act, is amended by adding at the end the following new paragraph:

"(8) TREATMENT OF QUALIFIED STOCK.—An arrangement under which an employee may receive qualified stock (as defined in section 83(i)(2)) shall not be treated as a nonqualified deferred compensation plan."

(d) INFORMATION REPORTING.—Section 6051(a) is amended by striking “and” at the end of paragraph (13), by striking the period at the end of paragraph (14) and inserting a comma, and by inserting after paragraph (14) the following new paragraphs:

"(15) the amount excludable from gross income under subparagraph (A) of section 83(i)(1),

"(16) the amount includible in gross income under subparagraph (B) of section 83(i)(1) with respect to an event described in such subparagraph which occurs in such calendar year, and

"(17) the aggregate amount of income which is being deferred pursuant to elections under section
83(i), determined as of the close of the calendar year.”.

(e) Penalty for Failure of Employer To Provide Notice of Tax Consequences.—Section 6652 is amended by adding at the end the following new subsection:

“(o) Failure to Provide Notice Under Section 83(i).—In the case of each failure to provide a notice as required by section 83(i)(6), at the time prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by the person failing to provide such notice, an amount equal to $100 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed $50,000.”.

(f) Effective Dates.—

(1) In General.—Except as provided in paragraph (2), the amendments made by this section shall apply to stock attributable to options exercised, or restricted stock units settled, after December 31, 2017.

(2) Requirement to Provide Notice.—The amendments made by subsection (e) shall apply to failures after December 31, 2017.
(g) TRANSITION RULE.—Until such time as the Secretary (or the Secretary’s delegate) issue regulations or other guidance for purposes of implementing the requirements of paragraph (2)(C)(i)(II) of section 83(i) of the Internal Revenue Code of 1986 (as added by this section), or the requirements of paragraph (6) of such section, a corporation shall be treated as being in compliance with such requirements (respectively) if such corporation complies with a reasonable good faith interpretation of such requirements.

Page 344, strike lines 9 through 12, and insert the following:

"(4) COORDINATION WITH SECTION 78.—With respect to the taxes treated as paid or accrued by a domestic corporation with respect to amounts which are includible in gross income of such domestic corporation by reason of this section, section 78 shall apply only to so much of such taxes as bears the same proportion to the amount of such taxes as—

"(A) the excess of—

"(i) the amounts which are includible in gross income of such domestic corporation by reason of this section, over
"(ii) the deduction allowable under subsection (e) with respect to such amounts, bears to
"(B) such amounts.".

Page 372, line 12, strike "subsection (h) or (i)" and insert "subsection (c)(2)(C), (h), or (i)".

Page 376, strike lines 3 through 7, and insert the following:

"(1) COMMODITIES GROSS INCOME.—The term ‘commodities gross income’ means, with respect to any corporation—
"(A) gross income of such corporation from the disposition of commodities which are produced or extracted by such corporation (or a partnership in which such corporation is a partner), and
"(B) gross income of such corporation from the disposition of property which gives rise to income described in subparagraph (A).”.

Page 398, strike lines 7 through 10, and insert the following:

"(C) the foreign corporation shall be allowed a deduction for the taxable year referred
to in subparagraph (A) equal to the product of—

"(i) the sum of 104 percent plus the annual Federal short-term rate (determined under section 1274(d)) for the last month ending before the beginning of the taxable year, multiplied by

"(ii) the deemed expenses with respect to such amount."

Page 398, strike lines 21 through 25, and insert the following:

"(ii) any amount paid or incurred for the acquisition of any security described in section 475(e)(2) or any commodity described in section 475(e)(2),".

Page 399, strike lines 10 through 14 and insert the following:

"(C) AMOUNTS NOT TREATED AS EFFECTIVELY CONNECTED TO EXTENT OF GROSS-BASIS TAX.—Subparagraph (B)(iii) shall only apply to so much of any specified amount as bears the proportion to such amount as—"

Page 400, line 1, insert "such specified amount and" before "deemed expenses".
Page 400, strike lines 13 through 19, and insert the following:

"(C) METHOD OF DETERMINATION.—

Amounts described in subparagraph (B) shall
be determined with respect to the international
financial reporting group on the basis of the
consolidated financial statements referred to in
paragraph (4)(A)(i) and the books and records
of the members of the international financial
reporting group which are used in preparing
such statements, taking into account only reve-
 nues and expenses of the members of such
group (other than the members of such group
which are treated as domestic for purposes of
this subsection) derived from, or incurred with
respect to—

"(i) persons who are not members of
such group, and

"(ii) members of such group which
are treated as a domestic corporation for
purposes of this subsection."

Page 403, strike line 20 and all that follows through
page 404, line 9, and insert the following:

"(8) TREATMENT OF FOREIGN TAXES.—
"(A) ALLOWANCE OF CREDIT.—In the case of any foreign corporation which receives specified amounts to which paragraph (1) applies during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the product of—

"(i) the excess (if any) of—

"(I) the aggregate specified amounts received by such foreign corporation to which paragraph (1) applies for such taxable year, over

"(II) the aggregate amount of deductions allowed under paragraph (1)(C) with respect to such foreign corporation for such taxable year, multiplied by

"(ii) the lesser of—

"(I) 50 percent of the international financial reporting group’s effective foreign tax rate for the reporting year during which or with which such taxable year ends, or

"(II) 20 percent."
(B) Disallowance of Foreign Tax Credit.—No credit shall be allowed under section 901 for any taxes paid or accrued (or treated as paid or accrued) with respect to any specified amount to which paragraph (1) applies.

(C) Denial of Deduction.—No deduction shall be allowed under this chapter for any tax for which credit is not allowable under section 901 by reason of subparagraph (B) (determined by treating the taxpayer as having elected the benefits of subpart A of part III of subchapter N).

(D) Effective Foreign Tax Rate.—For purposes of this paragraph, the term ‘effective foreign tax rate’ means, with respect to any reporting year of any international financial reporting group, the ratio (expressed as a percentage and not less than zero) of—

(i) the foreign income taxes paid by the international financial reporting group during such reporting year, divided by

(ii) the net income of the international financial reporting group deter-
mined without regard to interest income, interest expense, and income taxes.

Amounts described in this subparagraph shall be determined as provided in paragraph (3)(C).

"(E) FOREIGN INCOME TAXES.—For purposes of this paragraph, the term ‘foreign income taxes’ means any income, war profits, or excess profits taxes paid to any foreign country or possession of the United States."

Page 418, line 12, strike "$100,000" and insert "$250,000".

Amend the long title so as to read: "A bill to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018.".

[Signature]