

I would also add that I do not view these events in a vacuum. Clearly, this Congress needs to look at more incentives to keep American companies and jobs here. I have discussed with Chairman Rangel holding hearings on how our tax code treats both domestic and foreign sources of income to make sure American companies can successfully compete in a global market. However, until such changes are made, I will continue my efforts to prevent "self-help" maneuvers, such as the fiction of corporate expatriation.

A summary of my bill follows:

BILL SUMMARY
PRESENT LAW

Section 801 of the American Jobs Creation Act of 2004 (AJCA) added section 7874 to the Internal Revenue Code. Section 7874 provides certain rules designed to remove incentives for corporations to engage in inversion transactions. However, the anti-inversion rules do not apply if the expanded affiliated group (EAG) of the corporation has business activities in the foreign country in which, or under the laws of which, the acquiring foreign entity was created or organized and such business activities are substantial when compared to the total business activities of the EAG. (For purposes of section 7874, the EAG is similar to the affiliated group permitted to file a consolidated federal income tax return, except that companies are considered to be in the expanded affiliated group if they are more than 50 percent owned by the common parent or other members (the consolidation rules required 80 percent) and foreign corporations may be included in the expanded affiliated group.) In explaining the reason for this legislative change, the "Blue Book" compiled by Joint Tax states, "The Congress believed that inversion transactions resulting in minimal presence in a foreign country of incorporation were a means of avoiding U.S. tax and should be curtailed." Staff of Joint Comm. on Taxation, General Explanation of Tax Legislation Enacted in the 108th Congress, at 343 (Comm. Print JCS-5-05).

On June 5, 2006, the Department of the Treasury and the Internal Revenue Service issued Temporary and Proposed Regulations that, among other things, provide certain rules regarding the substantial activities test (T.D. 9265). The regulations provide both an all-facts-and-circumstances test and a bright-line safe harbor test to determine whether an EAG has substantial business activities in the acquiring foreign entity's country of incorporation when compared to the total business activities of the EAG. Under the general rule of the all-facts-and-circumstances test, the determination of whether the EAG has substantial business activities in the relevant foreign country, when compared to the total business activities of the EAG, is based on an analysis of all the facts and circumstances of each case. The regulations set forth a non-exclusive list of factors to be considered in the analysis. The weight given to any factor depends on the particular circumstances. The listed factors include, among other factors, the EAG's local employee headcount and payroll, property, and sales; the EAG's historical presence in the foreign country; its management activities in the country; and the strategic importance to the EAG as a whole of the business activities in that country.

The regulations state that the presence or absence of any factor, or any particular number of factors, in the list is not determinative, and that there is no minimum percentage of the group's total employee headcount, payroll, assets, or sales that must be shown to be in the foreign country.

The safe harbor test is satisfied if the EAG satisfies three conditions, relating to employees, assets, and sales. The first condition is that the group employees based in the foreign country account for at least 10 percent (by headcount and compensation) of total group employees. The second condition is that the total value of the group assets located in the foreign country represents at least 10 percent of the total value of all group assets. The third condition is that the group sales made in the foreign country accounts for at least 10 percent of total group sales.

THE BILL

The bill provides that for purposes of the substantial activities test of section 7874, any management or administrative activities, including the location of any corporate headquarters, taking place in the foreign country in which, or under the law of which, the inverted entity is created or organized shall not be taken into account as business activities. Under the bill, for example, if a U.S. company inverts to country X, and its management is located in country X or performs much of its management activities there, the activities of its management in country X are not taken into account for purposes of determining whether the activities of the EAG in country X are substantial when compared to the total worldwide business activities of the EAG. On the other hand, under that example if any management activities of the EAG take place outside of country X, such management activities are taken into account in applying the substantial activities test.

The bill modifies the statutory substantial business activities test, and accordingly limits the application of both the all-facts-and-circumstances test and the safe harbor of the regulations.

Under the bill, the term "management activities" includes any management activities, and therefore extends beyond top corporate management. For example, it would include management activities relating to operational units. Similarly, the term "administrative activities" includes departments whose function is essentially administrative in nature, such as accounting, as well as administrative activities relating to or performed by operational units.

IN CELEBRATION OF CLARA
BELLE LACEY

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2007

Mr. KUCINICH. Madam Speaker, I rise today to honor Clara Belle Lacey, on the occasion of her 80th birthday, and to celebrate her lifetime of contributions to Northeast Ohio.

Clara is fiercely dedicated to her family and her community. She helped her parents raise her siblings, and as a young working woman, she always ensured that they had extra presents and candy on the holidays. Clara's affection for and loyalty to her family and friends never wavers. She has boundless energy. Indeed, just being around her, one cannot help but be uplifted and touched by her radiance.

Clara has never been one to restrain her affection and concern for others. For decades she has been an outspoken community activist, committed to making Northeast Ohio a more peaceful, more equal, and more just community. She has been an invaluable asset to literally hundreds of organizations, grass-

roots movements, and city ward clubs. Her contributions to our community have been immeasurable.

Madam Speaker and colleagues, I have known Clara for decades, and I have been consistently blessed by her presence in my life. Please join me in honoring Clara Belle Lacey on the occasion of her 80th birthday. May we all aspire to be as caring and as loyal as she.

10TH CONGRESSIONAL DISTRICT
OF ILLINOIS SCHOOL CONSERVATION
CORPS ACT OF 2007

HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2007

Mr. KIRK. Madam Speaker, I am pleased to introduce the 10th Congressional District of Illinois School Conservation Corps Act of 2007, a bill crafted by America's future leaders. I believe it is critical to engage younger generations in our civic process in order to help them begin to build a better tomorrow.

Earlier this year, I invited students from all across my district to participate in a Model Congress. The best and brightest high school students from around northeast Illinois turned out to spend a weekend listening to expert testimony, debating policy, and passing legislation on climate change and environmental conservation.

One of the bills the students considered establishes a pilot program in the 10th District of Illinois for the Secretary of Education to launch and support a School Conservation Corps. Any group of 10 students and an advisor may form a chapter of the Corps to receive grants to participate in various environmental protection and restoration activities. Assuming the roles of actual Members of Congress, the students debated many provisions of the bill, including the types of activities that shall be performed, the amount of initial and matching grants that may be made available, and the parameters of the program's evaluation and expansion.

I am proud to announce that with minor drafting changes, the bill I rise to introduce today is the same bill passed by the talented students of the 10th District on April 22, 2007. I want to recognize Lauren Blake and Will McGauran who played the majority and minority leaders of this Model Congress. These students, who will both be seniors at New Trier High School next fall, worked hard to build partnerships and find compromises to pass the legislation before them.

The complete Model Congress comprised of the following students, who each played a critical role in the proceedings: Edward Alvarez, Charles Arnowitz, Frank Austin, Carolyn Barnett, Andrew Barr, Steven Blumental, Josh Brown, Emily Buehler, Melissa Burns, Arvin Canda, Lauren Cannizzaro, Douglas Carr, Amy Cleveland, Angelica Cleveland, Simone Coburn, Bruce Codell, Jordan Cohen, Elyse Conklin, Dan Cowin, Semeka Cunningham, Joseph Delvin, Peter Drogos Phyll, Ellen Eichner, Gustavo Esquivel, Maria Estrada, Teresa Fabila, Brad Fink, Kevin Finkle, Sherrie Fortson, Stephanie Fortson, Rebecca Fowler, Rachel Fybel, Roberto Garcia, Ana Gaytan, Aaron Goldstein, Alex Gordon, A. William