

(A) is related (within the meaning of section 267(b) or 707(b)(1)) to such entity, or  
 (B) is under the same common control (within the meaning of section 482) as such entity.

**(e) Special rules**

**(1) Credits not allowed against tax on inversion gain**

Credits (other than the credit allowed by section 901) shall be allowed against the tax imposed by this chapter on an expatriated entity for any taxable year described in subsection (a) only to the extent such tax exceeds the product of—

- (A) the amount of the inversion gain for the taxable year, and
- (B) the highest rate of tax specified in section 11(b)(1).

For purposes of determining the credit allowed by section 901, inversion gain shall be treated as from sources within the United States.

**(2) Special rules for partnerships**

In the case of an expatriated entity which is a partnership—

- (A) subsection (a)(1) shall apply at the partner rather than the partnership level,
- (B) the inversion gain of any partner for any taxable year shall be equal to the sum of—
  - (i) the partner's distributive share of inversion gain of the partnership for such taxable year, plus
  - (ii) gain recognized for the taxable year by the partner by reason of the transfer during the applicable period of any partnership interest of the partner in such partnership to the surrogate foreign corporation, and
- (C) the highest rate of tax specified in the rate schedule applicable to the partner under this chapter shall be substituted for the rate of tax referred to in paragraph (1).

**(3) Coordination with section 172 and minimum tax**

Rules similar to the rules of paragraphs (3) and (4) of section 860E(a) shall apply for purposes of subsection (a).

**(4) Statute of limitations**

**(A) In general**

The statutory period for the assessment of any deficiency attributable to the inversion gain of any taxpayer for any pre-inversion year shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of the acquisition described in subsection (a)(2)(B)(i) to which such gain relates and such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

**(B) Pre-inversion year**

For purposes of subparagraph (A), the term "pre-inversion year" means any taxable year if—

- (i) any portion of the applicable period is included in such taxable year, and
- (ii) such year ends before the taxable year in which the acquisition described in subsection (a)(2)(B)(i) is completed.

**(f) Special rule for treaties**

Nothing in section 894 or 7852(d) or in any other provision of law shall be construed as permitting an exemption, by reason of any treaty obligation of the United States heretofore or hereafter entered into, from the provisions of this section.

**(g) Regulations**

The Secretary shall provide such regulations as are necessary to carry out this section, including regulations providing for such adjustments to the application of this section as are necessary to prevent the avoidance of the purposes of this section, including the avoidance of such purposes through—

- (1) the use of related persons, pass-through or other noncorporate entities, or other intermediaries, or
- (2) transactions designed to have persons cease to be (or not become) members of expanded affiliated groups or related persons.

(Added Pub. L. 108-357, title VIII, §801(a), Oct. 22, 2004, 118 Stat. 1562; amended Pub. L. 109-135, title IV, §403(u), Dec. 21, 2005, 119 Stat. 2628.)

AMENDMENTS

2005—Subsec. (a)(3). Pub. L. 109-135 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: "Paragraph (1) shall not apply to any entity which is treated as a domestic corporation under subsection (b)."

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-135 effective as if included in the provision of the American Jobs Creation Act of 2004, Pub. L. 108-357, to which such amendment relates, see section 403(nn) of Pub. L. 109-135, set out as a note under section 26 of this title.

EFFECTIVE DATE

Pub. L. 108-357, title VIII, §801(c), Oct. 22, 2004, 118 Stat. 1566, provided that: "The amendments made by this section [enacting this section] shall apply to taxable years ending after March 4, 2003."

**Subtitle G—The Joint Committee on Taxation**

Chapter	Sec. <sup>1</sup>
91. Organization and membership of the Joint Committee .....	8001
92. Powers and duties of the Joint Committee .....	8021

AMENDMENTS

1976—Pub. L. 94-455, title XIX, §1907(b)(1), Oct. 4, 1976, 90 Stat. 1836, struck out "Internal Revenue" in heading of subtitle G.

**CHAPTER 91—ORGANIZATION AND MEMBERSHIP OF THE JOINT COMMITTEE**

Sec.	Authorization.
8001.	Memberships.
8002.	

<sup>1</sup> Section numbers editorially supplied.