

110TH CONGRESS
2D SESSION

H. R. 6969

To amend the Internal Revenue Code of 1986 to disallow the deduction for excess non-taxed reinsurance premiums with respect to United States risks paid to affiliates.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 18, 2008

Mr. NEAL of Massachusetts introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to disallow the deduction for excess non-taxed reinsurance premiums with respect to United States risks paid to affiliates.

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. DISALLOWANCE OF DEDUCTION FOR EXCESS
4 NON-TAXED REINSURANCE PREMIUMS PAID
5 TO AFFILIATES.

6 (a) IN GENERAL.—Subsection (b) of section 832 of
7 the Internal Revenue Code of 1986 is amended by adding
8 at the end the following new paragraph:

1 “(9) LIMITATION ON DEDUCTION FOR EXCESS
2 NON-TAXED REINSURANCE PREMIUMS PAID TO AF-
3 FILIATES.—

4 “(A) IN GENERAL.—No deduction shall be
5 allowed under paragraph (4) for so much of the
6 affiliated non-taxed reinsurance premiums paid
7 by a covered insurance company during the tax-
8 able year as exceeds the sum of—

9 “(i) the premium limitation for such
10 taxable year, plus

11 “(ii) the qualified ceding commissions
12 with respect to such premiums.

13 “(B) AFFILIATED NON-TAXED REINSUR-
14 ANCE PREMIUMS.—For purposes of this para-
15 graph—

16 “(i) IN GENERAL.—The term ‘affili-
17 ated non-taxed reinsurance premium’
18 means any reinsurance premium paid di-
19 rectly or indirectly to an affiliated corpora-
20 tion (other than a controlled foreign cor-
21 poration (as defined in section 957)) if no
22 tax is imposed by this subtitle with respect
23 to such premium.

24 “(ii) NETTING OF PREMIUMS PAID TO
25 COVERED INSURANCE COMPANY BY AFFILI-

1 ATES.—The amount of premiums which
2 would (but for this clause) be treated as
3 affiliated non-taxed reinsurance premiums
4 with respect to any affiliated corporation
5 for any taxable year shall be reduced (but
6 not below zero) by any reinsurance pre-
7 miums paid directly or indirectly to the
8 covered insurance company by such affili-
9 ated corporation during such taxable year.

9 Such limitation shall not be less than zero.

1 “(I) the numerator of which is so
2 much of such premiums as exceeds
3 the premium limitation for such tax-
4 able year, and

5 “(II) the denominator of which is
6 the aggregate amount of such pre-
7 miums.

8 “(E) ELECTION BY FOREIGN CORPORA-
9 TION TO BE TREATED AS DOMESTIC CORPORA-
10 TION.—

11 “(i) IN GENERAL.—If a foreign cor-
12 poration is paid a premium by a covered
13 insurance company which would (but for
14 this subparagraph) be a affiliated non-
15 taxed reinsurance premium, then such for-
16 eign corporation may make an election to
17 be treated as a domestic corporation for
18 purposes of this subtitle.

19 “(ii) REVOCATION ONLY WITH CON-
20 SENT.—Any election under clause (i), once
21 made, may be revoked only with the con-
22 sent of the Secretary.

23 “(iii) TREATMENT OF LOSSES.—Ex-
24 cept as otherwise provided by the Sec-
25 retary, rules similar to the rules of sections

4 “(F) OTHER DEFINITIONS AND SPECIAL
5 RULES.—For purposes of this paragraph—

1 “(II) the determination shall be
2 made without regard to subsections
3 (a)(4), (b)(2)(C), (b)(2)(D), and
4 (e)(3)(C) of section 1563.

5 “(iv) TREATMENT OF REINSURANCE
6 ASSUMED BY COVERED INSURANCE COM-
7 PANY.—Reinsurance ceded by a non-affili-
8 ated corporation to a covered insurance
9 company shall be taken into account in the
10 same manner as premiums written by such
11 covered insurance company.

12 “(G) REGULATIONS.—The Secretary shall
13 prescribe such regulations as may be appro-
14 priate to carry out or to prevent the avoidance
15 of the purposes of this paragraph, including
16 regulations which provide for the application of
17 this section to alternative reinsurance trans-
18 actions, fronting transactions, conduit and re-
19 ciprocal transactions, and any economically
20 equivalent transactions.”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to taxable years beginning after
23 December 31, 2008.

