

878. Foreign educational, charitable, and certain other exempt organizations

For special provisions relating to foreign educational, charitable, and other exempt organizations, see sections 512(a) and 4948.

879. Tax treatment of certain community income in the case of nonresident alien individuals

881. Tax on income of foreign corporations not connected with United States business

(a) Imposition of tax. -- Except as provided in subsection (c), there is hereby imposed for each taxable year a tax of 30 percent of the amount received from sources within the United states by a foreign corporation as --

(1) interest (other than original issue discount as defined in section 1273), dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, and other fixed or determinable annual or periodical gains, profits, and income,

(2) gains described in section 631(b) or (c),

(3) in the case of --

(A) a sale or exchange of an original issue discount obligation, the amount of the original issue discount accruing while such obligation was held by the foreign corporation (to the extent such discount was not theretofore taken into account under subparagraph (B)), and

(B) a payment on an original issue discount obligation, an amount equal to the original issue discount accruing while such obligation was held by the foreign corporation (except that such original issue discount shall be taken into account under this subparagraph only to the extent such discount was not theretofore taken into account under this subparagraph and only to the extent that the tax thereon does not exceed the payment less the tax imposed by paragraph (1) thereon), and

(4) gains from the sale or exchange after October 4, 1966, of patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other like property, or of any interest in any such property, to the extent such gains are from payments which are contingent on the productivity, use, or disposition of the property or interest sold or exchanged, but only to the extent the amount so received is not effectively connected with the conduct of a trade or business within the United States.

(b) Exception for certain Guam and Virgin Islands corporations. --

(1) In general. -- For purposes of this section and section 884, a corporation created or organized in Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands or under the law of any such possession shall not be treated as a foreign corporation of any taxable year if --

(A) at all times during such taxable year less than 25 percent in value of the stock of such corporation is beneficially owned (directly or indirectly) by foreign persons,

(B) at least 65 percent of the gross income of such corporation is shown to the satisfaction of the Secretary to be effectively connected with the conduct of a trade or business in such a possession or the United States for the 3-year period ending with the close of the taxable year of such corporation (or for such part of such period as the corporation or any predecessor has been in existence), and

(2) Definitions. --

(A) Foreign person. -- For purposes of paragraph (1), the term "foreign person" means any person other than --

(i) a United States person, or

(ii) a person who would be a United States person if references to the United States in section 7701 included references to a possession of the United States.

(B) Indirect ownership rules. -- For purposes of paragraph (1), the rules of section 318(a)(2) shall apply except that "5 percent" shall be substituted for "50 percent" in subparagraph (C) thereof.

(c) Repeal of tax on interest of foreign corporations received from certain portfolio debt investments. --

(1) In general. -- In the case of any portfolio interest received by a foreign corporation from sources within the United States, no tax shall be imposed under paragraph (1) or (3) of subsection (a).

(2) Portfolio interest. -- For purposes of this subsection, the term "portfolio interest" means any interest (including original issue discount) which would be subject to tax under subsection (a) but for this subsection and which is described in any of the following subparagraphs:

(A) Certain obligations which are not registered. -- Interest which is paid on any obligation which is described in section 871(h)(2)(A).

(B) Certain registered obligations. -- Interest which is paid on an obligation --

(i) which is in registered form, and

(ii) with respect to which the person who would otherwise be required to deduct and withhold tax from such interest under section 1442(a) receives a statement which meets the requirements of section 871(h)(4) that the beneficial owner of the obligation is not a United States person.

(3) Portfolio interest shall not include interest received by certain persons. -- For purposes of this subsection, the term "portfolio interest" shall not include any portfolio interest which --

(A) except in the case of interest paid on an obligation of the United States, is received by a bank on an extension of credit made pursuant to a loan agreement entered into in the ordinary course of its trade or business,

(B) is received by a 10-percent shareholder (within the meaning of section 871(h)(3)(B)), or

(C) is received by a controlled foreign corporation from a related person (within the meaning of section 864(d)(4)).

(4) Special rules for controlled foreign corporations.--

(A) In general. -- In the case of any portfolio interest received by a controlled foreign corporation, the following provisions shall not apply:

(i) Subparagraph (A) of section 954(b)(3) (relating to exception where foreign base company income is less than 5 percent or \$1,000,000).

(ii) Paragraph (4) of section 954(b)(3) (relating to exception for certain income subject to high foreign taxes).

(iii) Clause (i) of section 954(c)(3)(A) (relating to certain income received from related persons).

(B) Controlled foreign corporation. -- For purposes of this subsection, the term "controlled foreign corporation" has the meaning given to such term by section 957(a).

(5) Secretary may cease application of this subsection. -- Under rules similar to the rules of section 871(h)(5), the Secretary may provide that this subsection shall not apply to payments of interest described in section 871(h)(5).

(6) Registered form. -- For purposes of this subsection, the term "registered form" has the meaning given such term by section 163(f).

(d) Tax not to apply to certain interest and dividends. -- No tax shall be imposed under paragraph (1) or (3) of subsection (a) on any amount described in section 871(i)(2).

(e) Cross reference. --

For doubling of tax on corporations of certain foreign countries, see section 891.

For special rules for original issue discount, see section 871(g).

882. Tax on income of foreign corporations connected with United States business

(a) Imposition of tax. --

(I) In general. -- A foreign corporation engaged in trade or business within the United States during the taxable year shall be taxable as provided in section 11, 55, 59A, or 1201(a) on its taxable income which is effectively connected with the conduct of a trade or business within the United States.

(2) Determination of taxable income. -- In determining taxable income for purposes of paragraph (1), gross income includes only gross income which is effectively connected with the conduct of a trade or business within the United States.

(3) [Cross reference. --] For special tax treatment of gain or loss from the disposition by a foreign corporation of a United States real property interest, see section 897.

(b) Gross income. -- In the case of a foreign corporation, except where the context clearly indicates otherwise, gross income includes only --

(1) gross income which is derived from sources within the United States and which is not effectively connected with the conduct of a trade or business within the United States, and

(2) gross income which is effectively connected with the conduct of a trade or business within the United States.

(c) Allowance of deductions and credits. --

(1) Allocation of deductions. --

(A) General rule. -- In the case of a foreign corporation, the deductions shall be allowed only for purposes of subsection (a) and (except as provided by subparagraph (B)) only if and to the extent that they are connected with income which is effectively connected with the conduct of a trade or business within the United States; and the proper apportionment and allocation of the deductions for this purpose shall be determined as provided in regulations prescribed by the Secretary.

(B) Charitable contributions. -- The deduction for charitable contributions and gifts provided by section 170 shall be allowed whether or not connected with income which is effectively connected with the conduct of a trade or business within the United States.

(2) Deductions and credits allowed only if return filed. -- A foreign corporation shall receive the benefit of the deductions and credits allowed to it in this subtitle only by filing or causing to be filed with the Secretary a true and accurate return, in the manner prescribed in subtitle F, including therein all the information which the Secretary may deem necessary for the calculation of such deductions and credits. The preceding sentence shall not apply for purposes of the tax imposed by section 541 (relating to personal holding company tax), and shall not be construed to deny the credit provided by section 33 for tax withheld at source or the credit provided by section 34 for certain uses of gasoline.

(3) Foreign tax credit. -- Except as provided by section 906, foreign corporations shall not be allowed the credit against the tax for taxes of foreign countries and possessions of the United States allowed by section 901.

(4) Cross reference. --

For rule that certain foreign taxes are not to be taken into account in determining deduction or credit, see section 906(b)

(1).

(d) Election to treat real property income as income connected with United States business. --

(1) In general. -- A foreign corporation which during the taxable year derives any income --

(A) from real property located in the United States, or from any interest in such real property, including (i) gains from the sale or exchange of real property or an interest therein, (ii) rents or royalties from mines, wells, or other natural deposits, and (iii) gains described in section 631(b) or (c), and

(B) which, but for this subsection, would not be treated as income effectively connected with the conduct of a trade or business within the United States, may elect for such taxable year to treat all such income as income which is effectively connected with the conduct of a trade or business within the United States. In such case, such income shall be taxable as provided in subsection (a)(1) whether or not such corporation is engaged in trade or business within the United States during the taxable year. An election under this paragraph for any taxable year shall remain in effect for all subsequent taxable years, except that it may be revoked with the consent of the Secretary with respect to any taxable year.

(2) Election after revocation, etc. -- Paragraphs (2) and (3) of section 871(d) shall apply in respect of elections under this subsection in the same manner and to the same extent as they apply in respect of elections under section 871(d).

(e) Interest on United States obligations received by banks organized to possessions. -- In the case of a corporation created or organized in, or under the law of, a possession of the United States which is carrying on the banking business in a possession of the United States, interest on obligations of the United States which is not portfolio interest (as defined in section 881(c)(2)) shall --

(1) for purposes of this subpart, be treated as income which is effectively connected with the conduct of a trade or business within the United States, and

(2) shall be taxable as provided in subsection (a)(1) whether or not such corporation is engaged in trade or business within the United States during the taxable year.

(f) Returns of tax by agent. -- If any foreign corporation has no office or place of business in the United States, the return required under section 6012 shall be made by the agent.

883. Exclusions from gross income

(a) Income of foreign corporations from ships and aircraft. -- The following items shall not be included in gross income of a foreign corporation, and shall be exempt from taxation under this subtitle:

(1) Ships operated by certain foreign corporations. -- Gross income derived by a corporation organized in a foreign country from the international operation of a ship or ships if such foreign country grants an equivalent exemption to corporations organized in the United States.

(2) Aircraft operated by certain foreign corporations. -- Gross income derived by a corporation organized in a foreign country from the international operation of aircraft if such foreign country grants an equivalent exemption to corporations organized in the United States.

(3) Railroad rolling stock of foreign corporations. -- Earnings derived from payments by a common carrier for the use on a temporary basis (not expected to exceed a total of 90 days in any taxable year) of railroad rolling stock owned by a corporation of a foreign country which grants an equivalent exemption to corporations organized in the United States.

(4) Special rules. -- The rules of paragraphs (5), (6), and (7) of section 872(b) shall apply for purposes of this subsection.

(5) Special rule for countries which tax on residence basis. -- For purposes of this subsection, there shall not be taken into account any failure of a foreign country to grant an exemption to a corporation organized in the United States if such corporation is subject to tax by such foreign country on a residence basis pursuant to provisions of foreign law which meets such standards (if any) as the Secretary may prescribe.

(b) Earnings derived from communications satellite system. -- The earnings derived from the ownership or operation of a

communications satellite system by a foreign entity designated by a foreign government to participate in such ownership or operation shall be exempt from taxation under this subtitle, if the United States, through its designated entity, participates in such system pursuant to the Communications Satellite Act of 1962 (47 U.S.C. 701 and following).

(c) Treatment of certain foreign corporations. --

(1) In general. -- Paragraph (1) or (2) of subsection (a) (as the case may be) shall not apply to any foreign corporation if 50 percent or more of the value of the stock of such corporation is owned by individuals who are not residents of such foreign country or another foreign country meeting the requirements of such paragraph.

(2) Treatment of controlled foreign corporations. -- Paragraph (1) shall not apply to any foreign corporation which is a controlled foreign corporation (as defined in section 957(a)).

(3) Special rules for publicly traded corporations. --

(A) Exception. -- Paragraph (1) shall not apply to any corporation which is organized in a foreign country meeting the requirements of paragraph (1) or (2) of subsection (a) (as the case may be) and the stock of which is primarily and regularly traded on an established securities market in such foreign country, another foreign country meeting the requirements of such paragraph, or the United States.

(B) Treatment of stock owned by publicly traded corporation. -- Any stock in another corporation which is owned (directly or indirectly) by a corporation meeting the requirements of subparagraph (A) shall be treated as owned by individuals who are residents of the foreign country in which the corporation meeting the requirements of subparagraph (A) is organized.

(4) Stock ownership through entities. -- For purposes of paragraph (1), stock owned (directly or indirectly) by or for a corporation, partnership, trust, or estate shall be treated as being owned proportionately by its shareholders, partners, or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person.

884. Branch profits tax

(a) Imposition of tax. -- In addition to the tax imposed by section 882 for any taxable year, there is hereby imposed on any foreign corporation a tax equal to 30 percent of the dividend equivalent amount for the taxable year.

(b) Dividend equivalent amount. -- For purposes of subsection (a), the term "dividend equivalent amount" means the foreign corporation's effectively connected earnings and profits for the taxable year adjusted as provided in this subsection:

(1) Reduction for increase in U.S. net equity. -- If --

(A) the U.S. net equity of the foreign corporation as of the close of the taxable year, exceeds

(B) the U.S. net equity of the foreign corporation as of the close of the preceding taxable year,

the effectively connected earnings and profits for the taxable year shall be reduced (but not below zero) by the amount of such excess.

(2) Increase for decrease in net equity.--

(A) In general. -- If --

(i) the U.S. net equity of the foreign corporation as of the close of the preceding taxable year, exceeds

(ii) the U.S. net equity of the foreign corporation as the close of the taxable year,
the effectively connected earnings and profits for the taxable year shall be increased by the amount of such excess.

(B) Limitations. --

(i) In general. -- The increase under subparagraph (A) for any taxable year shall not exceed the accumulated effectively connected earnings and profits as of the close of the preceding taxable year.

(ii) Accumulated effectively connected earnings and profits, -- For purpose of clause (i), the term "accumulated effectively connected earnings and profits" means the excess of --

(I) the aggregate effectively connected earnings and profits for preceding taxable years beginning after December 31, 1986, over

(II) the aggregate dividend equivalent amounts determined for such preceding taxable years.

(c) U.S. net equity. -- For purposes of this section --

(1) In general. -- The term "U.S. net equity" means --

(A) U.S. assets, reduced (including below zero) by

(b) U.S. liabilities.

(2) U.S. assets and U.S. liabilities. -- For purposes of paragraph (1) --

(A) U.S. assets. -- The term "U.S. assets" means the money and aggregate adjusted bases of property of the foreign corporation treated as connected with the conduct of a trade or business in the United States under regulations prescribed by the Secretary. For purposes of the preceding sentence, the adjusted basis of any property shall be its adjusted basis for purposes of computing earnings and profits.

(B) U.S. liabilities. -- The term "U.S. liabilities" means the liabilities of the foreign corporation treated as connected with the conduct of a trade or business in the United States under regulations prescribed by the Secretary.

(C) Regulations to be consistent with allocation of deductions. -- The regulations prescribed under subparagraphs (A) and (B) shall be consistent with the allocation of deductions under section 882(c)(1).

(d) Effectively connected earnings and profits. -- For purposes of this section --

(1) In general. -- The term "effectively connected earnings and profits" means earnings and profits (without diminution by reason of any distributions made during the taxable year) which are attributable to income which is effectively connected (or treated as effectively connected) with the conduct of a trade or business within the United States.

(2) Exception for certain income. -- The term "effectively connected earnings and profits" shall not include any earnings and profits attributable to --

(A) income not includible in gross income under paragraph (1) or (2) of section 883(a),

(B) income treated as effectively connected with the conduct of a trade or business within the United States under section 921(d) or 926(b),

(C) gain on the disposition of a United States real property interest described in section 897(c)(1)(A)(ii),

(D) income treated as effectively connected with the conduct of a trade or business within the United States under section 953(c)(3)(C), or

(E) income treated as effectively connected with the conduct of a trade or business within the United States under section 882(e).

Property and liabilities of the foreign corporation treated as connected with such income under regulations prescribed by the Secretary shall not be taken into account in determining the U. S. assets or U.S. liabilities of the foreign corporation.

(e) Coordination with income tax treaties; etc. --

(1) Limitation on treaty exemption. -- No treaty between the United States and a foreign country shall exempt any foreign corporation from the tax imposed by subsection (a) (or reduce the amount thereof) unless --

(A) such treaty is an income tax treaty, and

(B) such foreign corporation is a qualified resident of such foreign country.

(2) Treaty modifications. -- If a foreign corporation is a qualified resident of a foreign country with which the United States has an income tax treaty --

(A) the rate of tax under subsection (a) shall be the rate of tax specified in such treaty --

(i) on branch profits if so specified, or

(ii) if not so specified, on dividend paid by a domestic corporation to a corporation resident in such country which wholly owns such domestic corporation, and

(B) any other limitations under such treaty on the tax imposed by subsection (a) shall apply.

(3) Coordination with withholding tax. --

(A) In general. -- If a foreign corporation is subject to the tax imposed by subsection (a) for any taxable year (determined after the application of any treaty), no tax shall be imposed by section 871(a), 1441, or 1442 on any dividends paid by such corporation out of its earnings and profits for such taxable year.

(B) Limitation on certain treaty benefits. -- If --

(i) any dividend described in section 861(a)(2)(B) is received by a foreign corporation, and

(ii) subparagraph (A) does not apply to such dividend, rules similar to the rules of subparagraphs (A) and (B) of subsection (f)(3) shall apply to such dividend.

(4) Qualified resident. -- For purposes of this subsection

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(A) In general. -- Except as otherwise provided in this paragraph, the term "qualified resident" means, with respect to any foreign country, any foreign corporation which is a resident of such foreign country unless --

(i) 50 percent or more (by value) of the stock of such foreign corporation is owned (within the meaning of section 883 (c)(4)) by individuals who are not residents of such foreign country and who are not United States citizens or resident aliens, or

(ii) 50 percent or more of its income is used (directly or indirectly) to meet liabilities to persons who are not residents of such foreign country or citizens or residents of the United States.

(B) Special rule for publicly traded corporations. -- A foreign corporation which is a resident of a foreign country shall be treated as a qualified resident of such foreign country if --

(i) the stock of such corporation is primarily and regularly traded on an established securities market in such foreign country, or

(ii) such corporation is wholly owned (either directly or indirectly) by another foreign corporation which is organized in such foreign country and the stock of which is so traded.

(C) Corporations owned by publicly traded domestic corporations. -- A foreign corporation which is a resident of a foreign country shall be treated as a qualified resident of such foreign country if --

(i) such corporation is wholly owned (directly or indirectly) by a domestic corporation, and

(ii) the stock of such domestic corporation is primarily and regularly traded on an established securities market in the United States.

(D) Secretarial authority. -- The Secretary may, in his sole discretion, treat a foreign corporation as being a qualified, resident of a foreign country if such corporation establishes to the satisfaction of the Secretary that such corporation meets such requirements as the Secretary may establish to ensure that individuals who are not residents of such foreign country do not use the treaty between such foreign country and the United States in a manner inconsistent with the purposes of this subsection.

(5) Exception for international organizations. -- This section shall not apply to an international organization (as defined in section 7701(a)(18)).

(f) Treatment of interest allocable to effectively connected income. --

(1) In general. -- In the case of a foreign corporation engaged in a trade or business in the United States (or having gross income treated as effectively connected with the conduct of a trade or business in the United States), for purposes of this subtitle --

(A) any interest paid by such trade or business in the United States shall be treated as if it were paid by a domestic corporation, and

(B) to the extent the amount of interest allowable as a deduction under section 882 in computing the effectively connected taxable income of such foreign corporation exceeds the interest described in subparagraph (A), such foreign corporation shall be liable for tax under section 881(a) in the same manner as if such excess were interest paid to such foreign corporation by a wholly owned domestic corporation on the last day of such foreign corporation's taxable year. To the extent provided in regulations, subparagraph (A) shall not apply to interest in excess of the amounts reasonably expected to be deductible under section 882 in computing the effectively connected taxable income of such foreign corporation.

(2) Effectively connected taxable income. -- For purposes of this subsection the term "effectively connected taxable income" means taxable income which is effectively connected (or treated as effectively connected) with the conduct of a trade or business within the United States.

(3) Coordination with treaties. --

(A) Payor must be qualified resident. -- In the case of any interest described in paragraph (1) which is paid or accrued by a foreign corporation, no benefit under any treaty between the United States and the foreign country of which such corporation is a resident shall apply unless --

(i) such treaty is an income tax treaty, and

(ii) such foreign corporation is a qualified resident of such foreign country.

(B) Recipient must be qualified resident. -- In the case of any interest described in paragraph (1) which is received or accrued by any corporation, no benefit under any treaty between the United States and the foreign country of which such corporation is a resident shall apply unless --

(i) such treaty is an income tax treaty, and

(ii) such foreign corporation is a qualified resident of such foreign country.

(g) Regulations. -- The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations providing for appropriate adjustments in the determination of the dividend equivalent amount in connection with the distribution to shareholders or transfer to a controlled corporation of the taxpayer's U.S. assets and other adjustments in such determination as are necessary or appropriate to carry out the purposes of this section.

885. Cross references

(1) For special provisions relating to foreign corporations carrying on an insurance business within the United States, see section 842.

(2) For rules applicable in determining whether any foreign corporation is engaged in trade or business within the United States, see section 864(b).

(3) For adjustment of tax in case of corporations of certain foreign countries, see section 896.

(4) For allowance of credit against the tax in case of a foreign corporation having income effectively connected with the conduct of a trade or business within the United States, see section 906.

(5) For withholding at source of tax on income of foreign corporations, see section 1442.

887. Imposition of tax on gross transportation income of nonresident aliens and foreign corporations

(a) imposition of tax. -- In the case of any nonresident alien individual or foreign corporation, there is hereby imposed for each taxable year a tax equal to 4 percent of such individual's or corporation's United States source gross transportation income for such taxable year.

(b) United States source gross transportation income. --

(1) In general. -- Except as provided in paragraphs (2) and (3), the term "United States source gross transportation income" means any gross income which is transportation income (as defined in section 863(c)(3)) to the extent such income is treated as from sources in the United States under section 863(c)(2). To the extent provided in regulations, such term does not include any income of a kind to which an exemption under paragraph (1) or (2) of section 883(a) would not apply.

(2) Exception for certain income effectively connected with business in the United States. -- The term "United States source gross transportation income" shall not include any income taxable under section 871(b) or 882.

(3) Exception for certain income taxable in possessions. -- The term "United States source gross transportation income" does not include any income taxable in a possession of the United States under the provisions of this title as made applicable in such possession.

(4) Determination of effectively connected income. -- For purposes of this chapter, United States source gross transportation income of any taxpayer shall not be treated as effectively connected with the conduct of a trade or business in the United States unless --

(A) the taxpayer has a fixed place of business in the United States involved in the earning of United States source gross transportation income, and

(B) substantially all of the United States source gross transportation income (determined without regard to paragraph (2) of the taxpayer is attributable to regularly scheduled transportation (or, in the case of income from the leasing of a vessel or aircraft, is attributable to a fixed place of business in the United States).

(c) Coordination with other provisions. -- Any income taxable under this section shall not be taxable under section 871, 881, or 882.

891. Doubling of rates of tax on citizens and corporations of certain foreign countries

Whenever the President finds that, under the laws of any foreign country, citizens or corporations of the United States

are being subjected to discriminatory or extraterritorial taxes, the President shall so proclaim and the rates of tax imposed by sections 1, 3, 11, 801, 831, 852, 871, and 881 shall, for the taxable year during which such proclamation is made and for each taxable year thereafter, be doubled in the case of each citizen and corporation of such foreign country; but the tax at such doubled rate shall be considered as imposed by such sections as the case may be. In no case shall this section operate to increase the taxes imposed by such sections (computed without regard to this section) to an amount in excess of 80 percent of the taxable income of the taxpayer (computed without regard to the deductions allowable under section 151 and under part VIII of subchapter B). Whenever the President finds that the laws of any foreign country with respect to which the President has made a proclamation under the preceding provisions of this section have been modified so that discriminatory and extraterritorial taxes applicable to citizens and corporations of the United States have been removed, he shall so proclaim, and the provisions of this section providing for doubled rates of tax shall not apply to any citizen or corporation of such foreign country with respect to any taxable year beginning after such proclamation is made.

892. Income of foreign governments and of international organizations

(a) Foreign governments. --

(1) In general. -- The income of foreign governments received from --

(A) investments in the United States in --

(i) stocks, bonds, or other domestic securities owned by such foreign governments, or

(ii) financial instruments held in the execution of governmental financial or monetary policy, or

(B) interest on deposits in banks in the United States of moneys belonging to such foreign governments, shall not be included in gross income and shall be exempt from taxation under this subtitle.

(2) Income received directly or indirectly from commercial activities. --

(A) In general. -- Paragraph (1) shall not apply to any income --

(i) derived from the conduct of any commercial activity (whether within or outside the United States),

(ii) received by a controlled commercial entity or received (directly or indirectly) from a controlled commercial entity.

(iii) derived from the disposition of any interest in a controlled commercial entity.

(B) Controlled commercial entity. -- For purposes of subparagraph (A), the term "controlled commercial entity" means any entity engaged in commercial activities (whether within or outside the United States) if the government --

(i) holds (directly or indirectly) any interest in such entity which (by value or voting interest) is 50 percent or more of the total of such interests in such entity, or

(ii) holds (directly or indirectly) any other interest in such entity which provides the foreign government with effective control of such entity.

For purposes of the preceding sentence, a central bank of issue shall be treated as a controlled commercial entity only if engaged in commercial activities within the United States.

(3) Treatment as resident. -- For purposes of this title, a foreign government shall be treated as a corporate resident of its country. A foreign government shall be so treated for purposes of any income tax treaty obligations of the United States if such government grants equivalent treatment to the Government of the United States.

(b) International organizations. -- The income of international organizations received from investments in the United States in stocks, bonds, or other domestic securities owned by such international organizations, or from interest on deposits in banks in the United States of moneys belonging to such international organizations, or from any other source within the United States, shall not be included in gross income and shall be exempt from taxation under this subtitle.

(c) Regulations. -- The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

893. Compensation of employees of foreign governments or international organizations

(a) Rule for exclusions. -- Wages, fees, or salary of any employee of a foreign government or of an international organization (including a consular or other officer, or a nondiplomatic representative), received as compensation for official services to such government or international organization shall not be included in gross income and shall be exempt from taxation under this subtitle if --

(1) such employee is not a citizen of the United States, or is a citizen of the Republic of the Philippines (whether or not a citizen of the United States); and

(2) in the case of an employee of a foreign government, the services are of a character similar to those performed by employees of the Government of the United States in foreign countries; and

(3) in the case of an employee of a foreign government, the foreign government grants an equivalent exemption to employees of the Government of the United States performing similar services in such foreign country.

(b) Certificate by Secretary of State. -- The Secretary of State shall certify to the Secretary of the Treasury the names of the foreign countries which grant an equivalent exemption to the employees of the Government of the United States performing services in such foreign countries, and the character of the services performed by employees of the Government of the United States in foreign countries.

(c) Limitation on exclusion. -- Subsection (a) shall not apply to --

(1) any employee of a controlled commercial entity (as defined section 892(a)(2)(B)), or

(2) any employee of a foreign government whose services are primarily in connection with a commercial activity (whether within or outside the United States) of the foreign government.

894. Income affected by treaty

(a) Treaty provisions. --

(1) In general. -- The provisions of this title shall be applied to any taxpayer with due regard to any treaty obligation of the United States which applies to such taxpayer.

(2) Cross reference. --

For relationship between treaties and this title, see section 7852(d).

(b) Permanent establishment in United States. -- For purposes of applying any exemption from, or reduction of, any tax provided by any treaty to which the United States is a party with respect to income which is not effectively connected with the conduct of a trade or business within the United States, a nonresident alien individual or a foreign corporation shall be deemed not to have a permanent establishment in the United States at any time during the taxable year. This subsection shall not apply in respect of the tax computed under section 877(b).

895. Income derived by a foreign central bank of issue from obligations of the United States or from bank deposits

Income derived by a foreign central bank of issue from obligations of the United States or of any agency or instrumentality thereof (including beneficial interests, participations, and other instruments issued under section 302 (c) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717)) which are owned by such foreign central bank of issue, or derived from interest on deposits with persons carrying on the banking business, shall not be included in gross income and shall be exempt from taxation under this subtitle unless such obligations or deposits are held for, or used in connection with, the conduct of commercial banking functions or other commercial activities. For purposes of the preceding sentence the Bank for International Settlements shall be treated as a foreign central bank of issue.

896. Adjustment of tax on nationals, residents, and corporations of certain foreign countries

(a) Imposition of more burdensome taxes by foreign country.

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Whenever the President finds that --

(1) under the laws of any foreign country, considering the tax system of such foreign country, citizens of the United States not residents of such foreign country or domestic corporations are being subjected to more burdensome taxes, on any item of income received by such citizens or corporations from sources within such foreign country, than taxes imposed by the provisions of this subtitle on similar income derived from sources within the

United States by residents or corporations of such foreign country.

(2) such foreign country, when requested by the United States to do so, has not acted to revise or reduce such taxes so that they are no more burdensome than taxes imposed by the provisions of this subtitle on similar income derived from sources within the United States by residents or corporations if such foreign country, and

(3) it is in the public interest to apply pre-1967 tax provisions in accordance with the provisions of this subsection to residents or corporations of such foreign country, the President shall proclaim that the tax on such similar income derived from sources within the United States by residents or corporations of such foreign country shall, for taxable years beginning after such proclamation, be determined under this subtitle without regard to amendments made to this subchapter and chapter 3 on or after the date of enactment of this section.

(b) Imposition of discriminatory taxes by foreign country. -
- Whenever the President finds that --

(1) under the laws of any foreign country, citizens of the United States or domestic corporations (or any class of such citizens or corporations) are, with respect to any item of income, being subjected to a higher effective rate of tax than are nationals, residents, or corporations of such foreign country (or a similar class of such nationals, residents, or corporations) under similar circumstances;

(2) such foreign country, when requested by the United States to do so, has not acted to eliminate such higher effective rate of tax; and

(3) it is in the public interest to adjust, in accordance with the provisions of this subsection, the effective rate of tax imposed by this subtitle on similar income of nationals, residents, or corporations of such foreign country (or such similar class of such nationals, residents, or corporations), the President shall proclaim that the tax on similar income of nationals, residents, or corporations of such foreign country (or such similar class of such nationals, residents, or corporations) shall, for taxable years beginning after such proclamation, be adjusted so as to cause the effective rate of tax imposed by this subtitle on such similar income to be substantially equal to the effective rate of tax imposed by such foreign country on such item of income of citizens of the United States or domestic corporations (or such class of citizens or corporations). In implementing a proclamation made under this subsection, the effective rate of tax imposed by this subtitle on an item of income may be adjusted by the disallowance, in whole or in part, of any deduction, credit, or exemption which would otherwise be allowed with respect to that item of income or by increasing the rate of tax otherwise applicable to that item of income.

(c) Alleviation of more burdensome or discriminatory taxes.

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Whenever the President finds that --

(1) the laws of any foreign country with respect to which the President has made a proclamation under subsection (a) have

been modified so that citizens of the United States not residents of such foreign country or domestic corporations are no longer subject to more burdensome taxes on the item of income derived by such foreign country, or

(2) the laws of any foreign country with respect to which the President has made a proclamation under subsection (b) have been modified so that citizens of the United States or domestic corporations (or any class of such citizens or corporations) are no longer subject to a higher effective rate of tax on the item of income, he shall proclaim that the tax imposed by this subtitle on the similar income of nationals, residents, or corporations of such foreign country shall, for any taxable year beginning after such proclamation, be determined under this subtitle without regard to such subsection.

(d) Notification of Congress required. -- No proclamation shall be issued by the President pursuant to this section unless, at least 30 days prior to such proclamation, he has notified the Senate and the House of Representatives of his intention to issue such proclamation.

(e) Implementation by regulations. -- The Secretary shall prescribe such regulations as he deems necessary or appropriate to implement this section.

897. Disposition of investment in United States real property

(a) General rule. --

(1) Treatment as effectively connected with United States trade or business. -- For purposes of this title, gain or loss of a nonresident alien individual or a foreign corporation from the disposition of a United States real property interest shall be taken into account --

(A) in the case of a nonresident alien individual, under section 871(B)(1),

or

(B) in the case of a foreign corporation, under section 882(a)(1),

as if the taxpayer were engaged in a trade or business within the United States during the taxable year and as if such gain or loss were effectively connected with such trade or business.

(2) 21-percent minimum tax on nonresident alien individuals. --

(A) In general. -- In the case of any nonresident alien individual, the amount determined under section 55(b)(1)(A) shall not be less than 21 percent of the lesser of --

(i) the individual's alternative minimum taxable income (as defined in section 55(b)(2)) for the taxable year, or

(ii) the individual's net United States real property gain for the taxable year.

(B) Net United States real property gain. -- For purposes of subparagraph (A), the term "net United States real property gain" means the excess of --

(i) the aggregate of the gains for the taxable year from dispositions of United States real property interests, over

(ii) the aggregate of the losses for the taxable year from dispositions of such interests.

(b) Limitation on losses of individuals. -- In the case of an individual, a loss shall be taken into account under subsection (a) only to the extent such loss would be taken into account under section 165(c) (determined without regard to subsection (a) of this section).

(c) United States real property interest. -- For purposes of this section --

(1) United States real property interest. --

(A) In general. -- Except as provided in subparagraph (B), the term "United States real property interest" means --

(i) an interest in real property (including an interest in a mine, well, or other natural deposit) located in the United States or the Virgin Islands, and

(ii) any interest (other than an interest solely as a creditor) in any domestic corporation unless the taxpayer establishes (at such time and in such manner as the Secretary by regulations prescribes) that such corporation was at no time a United States real property holding corporation during the shorter of --

(I) the period after June 18, 1980, during which the taxpayer held such interest, or

(II) the 5-year period ending on the date of the disposition of such interest.

(B) Exclusion for interest in certain corporations. -- The term "United States real property interest" does not include any interest in a corporation if --

(i) as of the date of the disposition of such interest, such corporation did not hold any United States real property interest, and

(ii) all of the United States real property interests held by such corporation at any time during the shorter of the periods described in subparagraph (A)(ii) --

(I) were disposed of in transactions in which the full amount of the gain (if any) was recognized, or

(II) ceased to be United States real property interests by reason of the application of this subparagraph to 1 or more other corporations.

(2) United States real property holding corporation. -- The term "United States real property holding corporation" means any corporation if --

(A) the fair market value of its United States real property interests equals or exceeds 50 percent of

(B) the fair market value of --

(i) its United States real property interests,

(ii) its interests real property located outside the United States, plus

(iii) any other of its assets which are used or held for use in a trade or business.

(3) Exception for stock regularly traded on established securities markets. -- If any class of stock of a corporation is regularly traded on an established securities market, stock of such class shall be treated as a United States real property interest only in the case of a person who, at some time during the

shorter of the periods described in paragraph (1)(A)(ii), held more than 5 percent of such class of stock.

(4) Interests held by foreign corporations and by partnerships, trusts, and estates. -- For purposes of determining whether any corporation is a United States real property holding corporation --

(A) Foreign corporations. -- Paragraph (1)(A)(ii) shall be applied by substituting "any corporation (whether foreign or domestic)" for "any domestic corporation".

(B) Assets held by partnerships, etc. -- Under regulations prescribed by the Secretary, assets held by a partnership, trust, or estate shall be treated as held proportionately by its partners or beneficiaries. Any asset treated as held by a partner or beneficiary by reason of this subparagraph which is used or held for use by the partnership, trust, or estate in a trade or business shall be treated as so used or held by the partner or beneficiary. As asset treated as held by a partner or beneficiary. Any asset treated as held by a partner or beneficiary by reason of this subparagraph shall be so treated for purposes of applying this subparagraph successively to partnerships, trusts, or estates which are above the first partnership, trust, or estate in a chain thereof.

(5) Treatment of controlling interests. --

(A) In general. -- Under regulations, for purposes of determining whether any corporation is a United States real property holding corporation, if any corporation (hereinafter in this paragraph referred to as the "first corporation") holds a controlling interest in a second corporation --

(i) the stock which the first corporation holds in the second corporation shall not be taken into account,

(ii) the first corporation shall be treated as holding a portion of each asset of the second corporation equal to the percentage of the fair market value of the stock of the second corporation represented by the stock held by the first corporation, and

Any asset treated as held by the first corporation by reason of the preceding sentence shall be so treated for purposes of applying the preceding sentence successively to corporations which are above the first corporation in a chain of corporations.

(iii) any asset treated as held by the first corporation by reason of clause (ii) which is used or held for use by the second corporation in a trade or business shall be treated as so used or held by the first corporation.

(B) Controlling interest. -- For purposes of subparagraph (A), the term "controlling interest" means 50 percent or more of the fair market value of all classes of stock of a corporation.

(6) Other special rules. --

(A) Interest in real property. -- The term "interest in real property" includes fee ownership and co-ownership of land or improvements thereon, leaseholds of land or improvements thereon, options to acquire land or improvements thereon, and options to acquire leaseholds of land or improvements thereon.

(B) Real property includes associated personal property. -- The term "real property" includes movable walls, furnishings,

and other personal property associated with the use of the real property.

(C) Constructive ownership rules. -- For purposes of determining under paragraph (3) whether any person holds more than 5 percent of any class of stock and of determining under paragraph (5) whether a person holds a controlling interest in any corporation, section 318(a) shall apply (except that paragraphs (2)(C) and (3)(C) of section 318(a) shall be applied by substituting "5 percent" for "50 percent").

(d) Treatment of distributions by foreign corporations. --

(1) In general. Except to the extent otherwise provided in regulations, notwithstanding any other provision of this chapter, gain shall be recognized by a foreign corporation on the distribution (including a distribution in liquidation or redemption) of a United States real property interest in an amount equal to the excess of the fair market value of such interest (as of the time of the distribution) over its adjusted basis.

(2) Exceptions. -- Gain shall not be recognized under paragraph (1) --

(A) if --

(i) at the time of the receipt of the distributed property, the distributee would be subject to taxation under this chapter on a subsequent disposition of the distributed property, and

(ii) the basis of the distributed property in the hands of the distributee is no greater than the adjusted basis of such property before the distribution, increased by the amount of gain (if any) recognized by the distributing corporation, or

(B) if such nonrecognition is provided in regulations prescribed by the Secretary under subsection (e)(2).

(e) Coordination with nonrecognition provisions. --

(1) In general. -- Except to the extent otherwise provided in subsection (d) and paragraph (2) of this subsection, any nonrecognition provision shall apply for purposes of this section to a transaction only in the case of an exchange of a United States real property interest for an interest the sale of which would be subject to taxation under this chapter.

(2) Regulations. -- The Secretary shall prescribe regulations (which are necessary or appropriate to prevent the avoidance of Federal income taxes) providing --

(A) the extent to which nonrecognition provisions shall, and shall not, apply for purposes of this section, and

(B) the extent to which --

(i) transfers of property in reorganization, and

(ii) changes in interests in, or distributions from, a partnership, trust, or estate, shall be treated as sales of property at fair market value.

(3) Nonrecognition provision defined. -- For purposes of this subsection, the term "nonrecognition provision" means any provision of this title for not recognizing gain or loss.

(f) Distributions by domestic corporations to foreign shareholders. -- If a domestic corporation distributes a United States real property interest to a nonresident alien individual or a foreign corporation in a distribution to which section 301

applies, notwithstanding any other provision of this chapter, the basis of such United States real property interest in the hands of such nonresident alien individual or foreign corporation shall not exceed --

(1) the adjusted basis of such property before the distribution, increased by

(2) the sum of --

(A) any gain recognized by the distributing corporation on the distribution, and

(B) any tax paid under this chapter by the distributee on such distribution.

(g) Special rule for sales of interest in partnerships, trusts, and estates. -- Under regulations prescribed by the Secretary, the amount of any money, and the fair market value of any property, received by a nonresident alien individual or foreign corporation in exchange for all or part of its interest in a partnership, trust, or estate shall, to the extent attributable to United States real property interests, be considered as an amount received from the sale or exchange in the United States of such property.

(h) Special rules for REITS. -- For purposes of this section --

(1) Look-through of distributions. -- Any distribution by a REIT to a nonresident alien individual or a foreign corporation shall, to the extent attributable to gain from sales or exchanges by the REIT of United States real property interests, be treated as gain recognized by such nonresident alien individual or foreign corporation from the sale or exchange of a United States real property interest.

(2) Sale of stock in domestically-controlled REITS. -- In the case of a domestically-controlled REIT, rules similar to the rules of subsection (d) shall apply to the foreign ownership percentage of any gain.

(4) Definitions. --

(A) REIT. -- The term "REIT" means a real estate investment trust.

(B) Domestically-controlled REIT. -- The term "domestically-controlled REIT" MEANS A reit in which at all times during the testing period less than 50 percent in value of the stock was held directly or indirectly by foreign persons.

(C) Foreign ownership percentage. -- The term "foreign ownership percentage" means that percentage of the stock of the REIT which was held (directly or indirectly) by foreign persons at the time during the testing period during which the direct and indirect ownership of stock by foreign persons was greatest.

(D) Testing period. -- The term "testing period" means whichever of the following periods is th shortest:

(i) the period beginning on June 19, 1980, and ending on the date of the disposition or of the distribution, as the case may be,

(ii) the 5-year period ending on the date of the disposition or of the distribution, as the case may be, or

(iii) the period during which the REIT was in existence.

(i) Election by foreign corporation to be treated as domestic corporation. --

(1) In general. -- If --

(A) a foreign corporation holds a United States real property interest, and

(B) under any treaty obligation of the United States the foreign corporation is entitled to nondiscriminatory treatment with respect to that interest, then such foreign corporation may make an election to be treated as a domestic corporation for purposes of this section, section 1445, and section 6039C.

(2) Revocation only with consent. -- Any election under paragraph (1), once made, may be revoked only with the consent of the Secretary.

(3) Making of election. -- An election under paragraph (1) may be made only --

(A) if all of the owners of all classes of interests (other than interests solely as a creditor) in the foreign corporation at the time of the election consent to the making of the election and agree that gain, if any, from the disposition of such interest after June 18, 1980, which would be taken into account under subsection (a) shall be taxable notwithstanding any provision to the contrary in a treaty to which the United States is a party, and

(B) subject to such other conditions as the Secretary may prescribe by regulations with respect to the corporation or its shareholders.

In the case of a class of interest (other than an interest solely as a creditor which is regularly traded on an established securities market, the consent described in subparagraph (A) need only be made by any person if such person held more than 5 percent of such class of interest at some time during the shorter of the periods described in subsection (c)(1)(A)(ii). The constructive ownership rules of subsection (c)(6)(C) shall apply in determining whether a person held more than 5 percent of a class of interest.

(4) Exclusive method of claiming nondiscrimination. -- The election provided by paragraph (1) shall be the exclusive remedy for any person claiming discriminatory treatment with respect to this section, section 1445, and section 6039C.

(j) Certain contributions to capital. -- Except to the extent otherwise provided in regulations, gain shall be recognized by a nonresident alien individual or foreign corporation on the transfer of a United States real property interest to a foreign corporation if the transfer is made as paid in surplus or as a contribution to capital, in the amount of the excess of --

(1) the fair market value of such property transferred, over

(2) the sum of --

(A) the adjusted basis of such property in the hands of the transferor, plus

(B) the amount of gain, if any, recognized to the transferor under any other provision at the time of the transfer.

- (k) Repealed.
- (l) Repealed.

898. Taxable year of certain foreign corporations

(a) General Rule. For purposes of this title, the taxable year of any specified foreign corporation shall be the required year determined under subsection (c).

(b) Specified Foreign Corporation. -- For purposes of this section --

(1) In general. -- The term "specivied foreign corporation" means any foreign corporation --

(A) which is --

(i) treated as a controlled foreign corporation for any purpose under subpart F of part III of this subchapter, or

(ii) a foreign personal holding company (as defined in section 552), and

(B) with respect to which the ownership requirements of paragraph (2) are met.

(2) Ownership requirements. --

(A) In general. -- The ownership requirements of this paragraph are met with respect to any foreign corporation if a United States shareholder owns, on each testing day, more than 50 percent of --

(i) the total voting power of all classes of stock of such corporation entitled to vote, or

(ii) the total value of all classes of stock of such corporation.

(B) Ownership. -- For purposes of subparagraph (A), the rules of subsections (a) and (b) of section 958 and sections 551 (f) and 554, whichever are applicable, shall apply in determining ownership.

(3) United States shareholder. --

(A) In general. -- The term "United States shareholder" has the menaing given to such term by section 951(b), except that, in the case of a foreign corporation having related person insurance income (as defined in section 953(c)(2)), the Secretary may treat any person as a United States shareholder for purposes of this section if such person is treated as a United States shareholder under secion 953(c)(1).

(B) Foreign personal holding companies. -- In the case of any foreign personal holding company (as defined in section 552) which is not a specified foreign corporation by reason of paragraph (1)(A)(i), the term "United States shareholder" means any person who is treated as a United States shareholder under section 551.

(c) Determination of Required Yar. --

(1) Controlled foreign corporations. --

(A) In general. -- In the case of a specified foreign corporation described in subsection (b)(1)(A)(i), the required year is --

(i) the majority U.S. shareholder year, or

(ii) if there is no majority U.S. shareholder year, the taxable year prescribed under regulations.

(B) 1-month deferral allowed. -- A specified foreign corporation may elect, in lieu of the taxable year under subparagraph (A)(i), a taxable year beginning 1 month earlier than the majority U.S. shareholder year.

(C) Majority U.S. shareholder year. --

(i) In general. -- For purposes of this subsection, the term "majority U.S. shareholder year" means the taxable year (if any) which, on each testing day, constituted the taxable year of --

(I) each United States shareholder described in subsection (b)(2)(a), and

(II) each United States shareholder not described in subclause (I) whose stock was treated as owned under subsection (b)(2)(B) by any shareholder described in such subclause.

(ii) Testing day. -- The testing days shall be --

(I) the first day of the corporation's taxable year (determined without regard to this section), or

(II) the days during such representative period as the Secretary may prescribe.

(2) Foreign personal holding companies. -- In the case of a foreign personal holding company described in subsection (b)(3)(B), the required year shall be determined under paragraph (1), except that subparagraph (B) of paragraph (1) shall not apply.

901. Taxes of foreign countries and of possessions of United States

(a) Allowance of credit. -- If the taxpayer chooses to have the benefits of this subpart, the tax imposed by this chapter shall, subject to the limitation of section 904, be credited with the amounts provided in the applicable paragraph of subsection (b) plus, in the case of a corporation, the taxes deemed to have been paid under sections 902 and 960. Such choice for any taxable year may be made or changed at any time before the expiration of the period prescribed for making a claim for credit or refund of the tax imposed by this chapter for such taxable year. The credit shall not be allowed against any tax treated as a tax not imposed by this chapter under section 26(b)

(b) Amount allowed. -- Subject to the limitation of section 904, the following amounts shall be allowed as the credit under subsection (a):

(1) Citizens and domestic corporations. -- In the case of a citizen of the United States and of a domestic corporation, the amount of any income, was profits, and excess profits taxes paid or accrued during the taxable year to any foreign country or to any possession of the United States; and

(2) Resident of the United States or Puerto Rico. -- In the case of a resident of the United States and in the case of an individual who is a bona fide resident of Puerto Rico during the entire taxable year, the amount of any such taxes paid or accrued during the taxable year to any possession of the United States; and

(3) Alien resident of the United States or Puerto Rico. -- In the case of an alien resident of the United States and in the

case of an alien individual who is a bona fide resident of Puerto Rico during the entire taxable year, the amount of any such taxes paid or accrued during the taxable year to any foreign country; and

(4) Nonresident alien individuals and foreign corporations. -- In the case of any nonresident alien individual not described in section 876 and in the case of any foreign corporation, the amount determined pursuant to section 906; and

(5) Partnerships and estates. -- In the case of any individual described in paragraph (1), (2), (3), or (4), who is a member of a partnership or a beneficiary of an estate or trust, the amount of his proportionate share of the taxes (described in such paragraph) of the partnership or the estate or trust paid or accrued during the taxable year to a foreign country or to any possession of the United States, as the cases may be.

(c) Similar credit required for certain alien residents. Whenever the President finds that --

(1) a foreign country, in imposing income, war profits, and excess profits taxes, does not allow to citizens of the United States residing in such foreign country a credit for any such taxes paid or accrued to the United States or any foreign country, as the case may be, similar to the credit allowed under subsection (b)(3),

(2) such foreign country, when requested by the United States to do so, has not acted to provide such a similar credit to citizens of the United States residing in such foreign country, and

(3) it is in the public interest to allow the credit under subsection (b)(3) to citizens or subjects of such foreign country only if it allows such a similar credit to citizens of the United States residing in such foreign country, the President shall proclaim that, for taxable years beginning while the proclamation remains in effect, the credit under subsection (b)(3) shall be allowed to citizens or subjects of such foreign country only if such foreign country, in imposing income, war profits, and excess profits taxes, allows to citizens of the United States residing in such foreign country such a similar credit.

(d) Treatment of dividends from a DISC or former DISC. -- For purposes of this subpart, dividends from a DISC or former DISC (as defined in section 992(a)) shall be treated as dividends from a foreign corporation to the extent such dividends are treated under part I as income from sources without the United States.

(e) Foreign taxed on mineral income. --

(1) Reduction in amount allowed. -- Notwithstanding subsection (b), the amount of any income, war profits, and excess profits taxes paid or accrued during the taxable year to any foreign country or possession of the United States with respect to foreign mineral income from sources within such country or possession which would (but for this paragraph) be allowed under such subsection shall be reduced by the amount (if any) by which

--

(A) the amount of such taxes (or, if smaller, the amount of the tax which would be computed under this chapter with respect to such income determined without the deduction allowed under section 613), exceeds

(B) the amount of the tax computed under this chapter with respect to such income.

(2) Foreign mineral income defined. -- For purposes of paragraph (1), the term "foreign mineral income" means income derived from the extraction of minerals from mines, wells, or other natural deposits, the processing of such minerals into their primary products, and the transportation, distribution, or sale of such minerals or primary products. Such term includes, but is not limited to --

(A) dividends received from a foreign corporation in respect of which taxes are deemed paid by the taxpayer under section 902, to the extent such dividends are attributable to foreign mineral income, and

(B) that portion of the taxpayer's distributive share of the income of partnerships attributable to foreign mineral income.

(f) Certain payments for oil or gas not considered as taxes. -- Notwithstanding subsection (b) and sections 902 and 960, the amount of any income, or profits, and excess profits taxes paid or accrued during the taxable year to any foreign country in connection with the purchase and sale of oil or gas extracted in such country is not to be considered as tax for purposes of section 275(a) and this section if --

(1) the taxpayer has no economic interest in the oil or gas to which section 611(a) applies, and

(2) either such purchase or sale is at a price which differs from the fair market value for such oil or gas at the time of such purchase or sale.

(g) Certain taxes paid with respect to distributions from possessions corporations. --

(1) In general. -- For purposes of this chapter, any tax of a foreign country or possession of the United States which is paid or accrued with respect to any distribution from a corporation --

(A) to the extent that such distribution is attributable to periods during which such corporation is a possessions corporation, and

(B)(i) if a dividends received deduction is allowable with respect to such distribution under part VIII of subchapter B, or

(ii) to the extent that such distribution is received in connection with a liquidation or other transaction with respect to which gain or loss is not recognized, shall not be treated as income, was profits, or excess profits taxes paid or accrued to a foreign country or possession of the United States, and no deduction shall be allowed under this title with respect to any amount so paid or accrued.

(2) Possessions corporation. -- For purposes of paragraph (1), a corporation shall be treated as a possessions corporation for any period during which an election under section 936 applied to such corporation, during which section 931 (as in effect on

the day before the date of the enactment of the Tax Reform Act of 1976) applied to such corporation, or during which section 957 (c) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) applied to such corporation.

(h) Taxes paid with respect to foreign trade income. -- No credit shall be allowed under this section for any income, war profits, and excess profits taxes paid or accrued with respect to the foreign trade income (within the meaning of section 923(b)) of a FSC, other than section 923(a)(2) non-exempt income (within the meaning of section 927(d)(6)).

(i) Taxes used to provide subsidies. -- Any income, war profits, or excess profits tax shall not be treated as a tax for purposes of this title to the extent --

(1) the amount of such tax is used (directly or indirectly) by the country imposing such tax to provide a subsidy by any means to the taxpayer, a related person (within the meaning of section 482), or any party to the transaction or to a related transaction, and

(2) such subsidy is determined (directly or indirectly) by reference to the amount of such tax, or the base used to compute the amount of such tax.

(j) Denial of foreign tax credit, etc., with respect to certain foreign countries. --

(1) In general. -- Notwithstanding any other provision of this part --

(A) no credit shall be allowed under subsection (a) for any income, war profits, or excess profits taxes paid or accrued (or deemed paid under section 902 or 960) to any country if such taxes are with respect to income attributable to a period during which this subsection applies to such country, and

(B) subsections (a), (b) and (c) of section 904 and sections 902 and 960 shall be applied separately with respect to income attributable to such a period from sources within such country.

(2) Countries to which subsection applies. --

(A) In general. -- This subsection shall apply to any foreign country --

(i) the government of which the United States does not recognize, unless such government is otherwise eligible to purchase defense articles or services under the Arms Export Control Act,

(ii) with respect to which the United States has severed diplomatic relations,

(iii) with respect to which the United States has not severed diplomatic relations but does not conduct such relations, or

(iv) which the Secretary of State has, pursuant to section 6 (j) of the Export Administration Act of 1979, as amended, designated as a foreign country which repeatedly provides support for acts of international terrorism.

(B) Period for which subsection applies. -- This subsection shall apply to any foreign country described in subparagraph (A) during the period --

(i) beginning on the later of --

(I) January 1, 1987, or
(II) 6 months after such country becomes a country described in subparagraph (A), and
(ii) ending on the date the Secretary of State certifies to the Secretary of the Treasury that such country is no longer described in subparagraph (A).
(C) Special rule for South Africa. --
(i) In general. -- In addition to any period during which this subsection would otherwise apply to South Africa, this subsection shall apply to South Africa during the period --
(I) beginning on January 1, 1988, and
(II) ending on the date the Secretary of State certifies to the Secretary of the Treasury that South Africa meets the requirements of section 311(a) of the Comprehensive Anti-Apartheid Act of 1986 (as in effect on the date of the enactment of this subparagraph).
(ii) South Africa defined. -- For purposes of clause (i), the term "South Africa" has the meaning given to such term by paragraph (6) of section 3 of the Comprehensive Anti-Apartheid Act of 1986 (as so in effect).
(3) Taxes allowed as a deduction, etc. -- Sections 275 and 78 shall not apply to any tax which is not allowable as a credit under subsection (a) by reason of this subsection.
(4) Regulations. -- The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations which treat income paid through 1 or more entities as derived from a foreign country to which this subsection applies if such income was, without regard to such entities, derived from such country.
(k) Cross reference. --
(1) For deductions of income, war profits, and excess profits taxes paid to a foreign country or a possession of the United States, see sections 164 and 275.
(2) For right of each partner to make election under this section, see section 703(b).
(3) For right of estate or trust to the credit for taxes imposed by foreign countries and possessions of the United States under this section, see section 642(a).
(4) For reduction of credit for failure of a United States person to furnish certain information with respect to a foreign corporation controlled by him, see section 6038.