

**§ 909. Suspension of taxes and credits until related income taken into account**

**(a) In general**

If there is a foreign tax credit splitting event with respect to a foreign income tax paid or accrued by the taxpayer, such tax shall not be taken into account for purposes of this title before the taxable year in which the related income is taken into account under this chapter by the taxpayer.

**(b) Special rules with respect to section 902 corporations**

If there is a foreign tax credit splitting event with respect to a foreign income tax paid or accrued by a section 902 corporation, such tax shall not be taken into account—

(1) for purposes of section 902 or 960, or

(2) for purposes of determining earnings and profits under section 964(a), before the taxable year in which the related income is taken into account under this chapter by such section 902 corporation or a domestic corporation which meets the ownership requirements of subsection (a) or (b) of section 902 with respect to such section 902 corporation.

**(c) Special rules**

For purposes of this section—

**(1) Application to partnerships, etc.**

In the case of a partnership, subsections (a) and (b) shall be applied at the partner level. Except as otherwise provided by the Secretary, a rule similar to the rule of the preceding sentence shall apply in the case of any S corporation or trust.

**(2) Treatment of foreign taxes after suspension**

In the case of any foreign income tax not taken into account by reason of subsection (a) or (b), except as otherwise provided by the Secretary, such tax shall be so taken into account in the taxable year referred to in such subsection (other than for purposes of section 986(a)) as a foreign income tax paid or accrued in such taxable year.

**(d) Definitions**

For purposes of this section—

**(1) Foreign tax credit splitting event**

There is a foreign tax credit splitting event with respect to a foreign income tax if the related income is (or will be) taken into account under this chapter by a covered person.

**(2) Foreign income tax**

The term “foreign income tax” means any income, war profits, or excess profits tax paid or accrued to any foreign country or to any possession of the United States.

**(3) Related income**

The term “related income” means, with respect to any portion of any foreign income tax, the income (or, as appropriate, earnings and profits) to which such portion of foreign income tax relates.

**(4) Covered person**

The term “covered person” means, with respect to any person who pays or accrues a for-

eign income tax (hereafter in this paragraph referred to as the “payor”)—

(A) any entity in which the payor holds, directly or indirectly, at least a 10 percent ownership interest (determined by vote or value),

(B) any person which holds, directly or indirectly, at least a 10 percent ownership interest (determined by vote or value) in the payor,

(C) any person which bears a relationship to the payor described in section 267(b) or 707(b), and

(D) any other person specified by the Secretary for purposes of this paragraph.

**(5) Section 902 corporation**

The term “section 902 corporation” means any foreign corporation with respect to which one or more domestic corporations meets the ownership requirements of subsection (a) or (b) of section 902.

**(e) Regulations**

The Secretary may issue such regulations or other guidance as is necessary or appropriate to carry out the purposes of this section, including regulations or other guidance which provides—

(1) appropriate exceptions from the provisions of this section, and

(2) for the proper application of this section with respect to hybrid instruments.

(Added Pub. L. 111-226, title II, §211(a), Aug. 10, 2010, 124 Stat. 2394.)

EFFECTIVE DATE

Pub. L. 111-226, title II, §211(c), Aug. 10, 2010, 124 Stat. 2395, provided that: “The amendments made by this section [enacting this section] shall apply to—

“(1) foreign income taxes (as defined in section 909(d) of the Internal Revenue Code of 1986, as added by this section) paid or accrued in taxable years beginning after December 31, 2010; and

“(2) foreign income taxes (as so defined) paid or accrued by a section 902 corporation (as so defined) in taxable years beginning on or before such date (and not deemed paid under section 902(a) or 960 of such Code on or before such date), but only for purposes of applying sections 902 and 960 with respect to periods after such date.

Section 909(b)(2) of the Internal Revenue Code of 1986, as added by this section, shall not apply to foreign income taxes described in paragraph (2).”

SUBPART B—EARNED INCOME OF CITIZENS OR RESIDENTS OF UNITED STATES

Sec.	
911.	Citizens or residents of the United States living abroad.
912.	Exemption for certain allowances.
[913.	Repealed.]

AMENDMENTS

1981—Pub. L. 97-34, title I, §§111(b)(1), 112(b)(1), Aug. 13, 1981, 95 Stat. 194, 195, substituted “Citizens or residents of the United States living abroad” for “Income earned by individuals in certain camps or from charitable services” in item 911 and struck out item 913 “Deduction for certain expenses of living abroad”.

1980—Pub. L. 96-595, §4(c)(2), Dec. 24, 1980, 94 Stat. 3467, inserted “or from charitable services” after “camps” in item 911.

1978—Pub. L. 95-615, §§202(g)(2), (3), 203(c), formerly §§202(f)(2), (3), 203(c), Nov. 8, 1978, 92 Stat. 3100, 3106, re-