

Subsec. (c)(1). Pub. L. 109-135, § 403(q)(4), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “The term ‘applicable financial statement’ means, with respect to a United States shareholder, the most recently audited financial statement (including notes and other documents which accompany such statement) which includes such shareholder—

“(A) which is certified on or before June 30, 2003, as being prepared in accordance with generally accepted accounting principles, and

“(B) which is used for the purposes of a statement or report—

“(i) to creditors,

“(ii) to shareholders, or

“(iii) for any other substantial nontax purpose.

In the case of a corporation required to file a financial statement with the Securities and Exchange Commission, such term means the most recent such statement filed on or before June 30, 2003.”

Subsec. (d)(2). Pub. L. 109-135, § 403(q)(5), substituted “directly allocable” for “properly allocated and apportioned”.

Subsec. (d)(4). Pub. L. 109-135, § 403(q)(6), added par. (4).

Subsec. (e)(1). Pub. L. 109-135, § 403(q)(7), inserted “which are imposed by foreign countries and possessions of the United States and are” after “taxes” in concluding provisions.

Subsec. (f). Pub. L. 109-135, § 403(q)(8), inserted “on or” before “before the due date” in concluding provisions.

EFFECTIVE DATE OF 2005 AMENDMENT

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

EFFECTIVE DATE

Section applicable to taxable years ending on or after Oct. 22, 2004, see section 422(d) of Pub. L. 108-357, set out as an Effective Date of 2004 Amendments note under section 56 of this title.

SUBPART G—EXPORT TRADE CORPORATIONS

Sec.	
970.	Reduction of subpart F income of export trade corporations.
971.	Definitions.
[972.]	Repealed.]

AMENDMENTS

1976—Pub. L. 94-455, title XIX, § 1901(b)(27)(B), Oct. 4, 1976, 90 Stat. 1799, struck out item 972 “Consolidation of group of export trade corporations”.

1962—Pub. L. 87-834, § 12(a), Oct. 16, 1962, 76 Stat. 1027, added heading of subpart G, and items 970 to 972.

§ 970. Reduction of subpart F income of export trade corporations

(a) Export trade income constituting foreign base company income

(1) In general

In the case of a controlled foreign corporation (as defined in section 957) which for the taxable year is an export trade corporation, the subpart F income (determined without regard to this subpart) of such corporation for such year shall be reduced by an amount equal to so much of the export trade income (as defined in section 971(b)) of such corporation for such year as constitutes foreign base company income (as defined in section 954), but only to

the extent that such amount does not exceed whichever of the following amounts is the lesser:

(A) an amount equal to 1½ times so much of the export promotion expenses (as defined in section 971(d)) of such corporation for such year as is probably allocable to the export trade income which constitutes foreign base company income of such corporation for such year, or

(B) an amount equal to 10 percent of so much of the gross receipts for such year (or, in the case of gross receipts arising from commissions, fees, or other compensation for its services, so much of the gross amount upon the basis of which such commissions, fees, or other compensation is computed) accruing to such export trade corporation from the sale, installation, operation, maintenance, or use of property in respect of which such corporation derives export trade income as is properly allocable to the export trade income which constitutes foreign base company income of such corporation for such year.

The allocations with respect to export trade income which constitutes foreign base company income under subparagraphs (A) and (B) shall be made under regulations prescribed by the Secretary.

(2) Overall limitation

The reduction under paragraph (1) for any taxable year shall not exceed an amount which bears the same ratio to the increase in the investments in export trade assets (as defined in section 971(c)) of such corporation for such year as the export trade income which constitutes foreign base company income of such corporation for such year bears to the entire export trade income of such corporation for such year.

(b) Inclusion of certain previously excluded amounts

Each United States shareholder of a controlled foreign corporation which for any prior taxable year was an export trade corporation shall include in his gross income under section 951(a)(1)(A)(ii), as an amount to which section 955 (relating to withdrawal of previously excluded subpart F income from qualified investment) applies, his pro rata share of the amount of decrease in the investments in export trade assets of such corporation for such year, but only to the extent that his pro rata share of such amount does not exceed an amount equal to—

(1) his pro rata share of the sum of (A) the amounts by which the subpart F income of such corporation was reduced for all prior taxable years under subsection (a), and (B) the amounts not included in subpart F income (determined without regard to this subpart) for all prior taxable years by reason of the treatment (under section 972 as in effect before the date of the enactment of the Tax Reform Act of 1976) of two or more controlled foreign corporations which are export trade corporations as a single controlled foreign corporation, reduced by