

relating to restoration of credit, see section 104(h) of Pub. L. 92-178, set out as a note under section 48 of this title.

Amendment by section 303(c)(1), (2) of Pub. L. 92-178 applicable to taxable years ending after Dec. 31, 1971, see section 303(d) of Pub. L. 92-178, set out as a note under section 642 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Pub. L. 91-172, title II, §212(a)(3), Dec. 30, 1969, 83 Stat. 571, provided that: "The amendments made by paragraphs (1) and (2) [amending this section] shall apply with respect to taxable years beginning after December 31, 1969."

Amendment by section 704(b)(4) of Pub. L. 91-172 applicable to taxable years ending after Dec. 31, 1968, see section 704(c) of Pub. L. 91-172, set out as a note under section 169 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-272 applicable with respect to dispositions after Dec. 31, 1963, in taxable years ending after such date, see section 203(f)(3) of Pub. L. 88-272, set out as a note under section 48 of this title.

EFFECTIVE DATE

Pub. L. 87-834, §13(g), Oct. 16, 1962, 76 Stat. 1035, provided that: "The amendments made by this section [enacting this section and amending sections 167, 170, 301, 312, 341, 453, 613, and 751 of this title] (other than the amendments made by subsection (c) [amending sections 167, 179, and 642 of this title]) shall apply to taxable years beginning after December 31, 1962. The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 1961, and ending after the date of the enactment of this Act [Oct. 16, 1962]."

SAVINGS PROVISION

For provisions that nothing in amendment by sections 11801 and 11813 of Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

[[§ 1246, 1247. Repealed. Pub. L. 108-357, title IV, § 413(a)(2), (3), Oct. 22, 2004, 118 Stat. 1506]

Section 1246, added Pub. L. 87-834, §14(a)(1), Oct. 16, 1962, 76 Stat. 1036; amended Pub. L. 94-455, title XIV, §1402(b)(1)(W), (2), title XIX, §§1901(a)(141), (b)(3)(I), (32)(B)(ii), 1906(b)(13)(A), title XX, §2005(a)(5), Oct. 4, 1976, 90 Stat. 1732, 1787, 1793, 1800, 1834, 1877; Pub. L. 96-223, title IV, §401(a), Apr. 2, 1980, 94 Stat. 299; Pub. L. 97-34, title VIII, §832(a), Aug. 13, 1981, 95 Stat. 355; Pub. L. 98-369, div. A, title I, §134(a), title X, §1001(b)(20), (e), July 18, 1984, 98 Stat. 668, 1012; Pub. L. 99-514, title XII, §1235(b), Oct. 22, 1986, 100 Stat. 2574; Pub. L. 100-647, title I, §§1012(p)(21), 1018(o)(2), Nov. 10, 1988, 102 Stat. 3519, 3585; Pub. L. 107-16, title V, §542(e)(5)(A), June 7, 2001, 115 Stat. 85; Pub. L. 111-312, title III, §301(a), Dec. 17, 2010, 124 Stat. 3300, related to treatment of gain on foreign investment company stock.

Section 1247, added Pub. L. 87-834, §14(a)(1), Oct. 16, 1962, 76 Stat. 1037; amended Pub. L. 94-455, title XIV, §1402(b)(1)(X), (2), title XIX, §§1901(b)(33)(P), (R), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1732, 1802, 1834; Pub. L. 98-369, div. A, title X, §1001(b)(21), (e), July 18, 1984, 98 Stat. 1012, related to election by foreign investment companies to distribute income currently.

EFFECTIVE DATE OF REPEAL

Repeal applicable to taxable years of foreign corporations beginning after Dec. 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end, see sec-

tion 413(d)(1) of Pub. L. 108-357, set out as an Effective and Termination Dates of 2004 Amendments note under section 1 of this title.

§ 1248. Gain from certain sales or exchanges of stock in certain foreign corporations

(a) General rule

If—

(1) a United States person sells or exchanges stock in a foreign corporation, and

(2) such person owns, within the meaning of section 958(a), or is considered as owning by applying the rules of ownership of section 958(b), 10 percent or more of the total combined voting power of all classes of stock entitled to vote of such foreign corporation at any time during the 5-year period ending on the date of the sale or exchange when such foreign corporation was a controlled foreign corporation (as defined in section 957),

then the gain recognized on the sale or exchange of such stock shall be included in the gross income of such person as a dividend, to the extent of the earnings and profits of the foreign corporation attributable (under regulations prescribed by the Secretary) to such stock which were accumulated in taxable years of such foreign corporation beginning after December 31, 1962, and during the period or periods the stock sold or exchanged was held by such person while such foreign corporation was a controlled foreign corporation. For purposes of this section, a United States person shall be treated as having sold or exchanged any stock if, under any provision of this subtitle, such person is treated as realizing gain from the sale or exchange of such stock.

(b) Limitation on tax applicable to individuals

In the case of an individual, if the stock sold or exchanged is a capital asset (within the meaning of section 1221) and has been held for more than 1 year, the tax attributable to an amount included in gross income as a dividend under subsection (a) shall not be greater than a tax equal to the sum of—

(1) a pro rata share of the excess of—

(A) the taxes that would have been paid by the foreign corporation with respect to its income had it been taxed under this chapter as a domestic corporation (but without allowance for deduction of, or credit for, taxes described in subparagraph (B)), for the period or periods the stock sold or exchanged was held by the United States person in taxable years beginning after December 31, 1962, while the foreign corporation was a controlled foreign corporation, adjusted for distributions and amounts previously included in gross income of a United States shareholder under section 951, over

(B) the income, war profits, or excess profits taxes paid by the foreign corporation with respect to such income; and

(2) an amount equal to the tax that would result by including in gross income, as gain from the sale or exchange of a capital asset held for more than 1 year, an amount equal to the excess of (A) the amount included in gross income as a dividend under subsection (a),