

shall be taken into account ratably over the 10-year period beginning with the corporation's first taxable year beginning after December 31, 1986."

§ 903. Credit for taxes in lieu of income, etc., taxes

For purposes of this part and of sections 164(a) and 275(a), the term "income, war profits, and excess profits taxes" shall include a tax paid in lieu of a tax on income, war profits, or excess profits otherwise generally imposed by any foreign country or by any possession of the United States.

(Aug. 16, 1954, ch. 736, 68A Stat. 287; Pub. L. 88-272, title II, § 207(b)(8), Feb. 26, 1964, 78 Stat. 42; Pub. L. 100-647, title I, § 1012(v)(9), Nov. 10, 1988, 102 Stat. 3530; Pub. L. 106-519, § 4(4), Nov. 15, 2000, 114 Stat. 2433; Pub. L. 108-357, title I, § 101(b)(7), Oct. 22, 2004, 118 Stat. 1423.)

AMENDMENTS

2004—Pub. L. 108-357 substituted "164(a)" for "114, 164(a),".

2000—Pub. L. 106-519 substituted "114, 164(a)," for "164(a)".

1988—Pub. L. 100-647 substituted "this part" for "this subpart".

1964—Pub. L. 88-272 substituted "sections 164(a) and 275(a)" for "section 164(b)".

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to transactions after Dec. 31, 2004, see section 101(c) of Pub. L. 108-357, set out as a note under section 56 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-519 applicable to transactions after Sept. 30, 2000, with special rules relating to existing foreign sales corporations, see section 5 of Pub. L. 106-519, set out as a note under section 56 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-272 applicable to taxable years beginning after Dec. 31, 1963, see section 207(c) of Pub. L. 88-272, set out as a note under section 164 of this title.

§ 904. Limitation on credit

(a) Limitation

The total amount of the credit taken under section 901(a) shall not exceed the same proportion of the tax against which such credit is taken which the taxpayer's taxable income from sources without the United States (but not in excess of the taxpayer's entire taxable income) bears to his entire taxable income for the same taxable year.

(b) Taxable income for purpose of computing limitation

(1) Personal exemptions

For purposes of subsection (a), the taxable income in the case of an individual, estate, or trust shall be computed without any deduction for personal exemptions under section 151 or 642(b).

(2) Capital gains

For purposes of this section—

(A) In general

Taxable income from sources outside the United States shall include gain from the sale or exchange of capital assets only to the extent of foreign source capital gain net income.

(B) Special rules where capital gain rate differential

In the case of any taxable year for which there is a capital gain rate differential—

(i) in lieu of applying subparagraph (A), the taxable income from sources outside the United States shall include gain from the sale or exchange of capital assets only in an amount equal to foreign source capital gain net income reduced by the rate differential portion of foreign source net capital gain,

(ii) the entire taxable income shall include gain from the sale or exchange of capital assets only in an amount equal to capital gain net income reduced by the rate differential portion of net capital gain, and

(iii) for purposes of determining taxable income from sources outside the United States, any net capital loss (and any amount which is a short-term capital loss under section 1212(a)) from sources outside the United States to the extent taken into account in determining capital gain net income for the taxable year shall be reduced by an amount equal to the rate differential portion of the excess of net capital gain from sources within the United States over net capital gain.

(C) Coordination with capital gains rates

The Secretary may by regulations modify the application of this paragraph and paragraph (3) to the extent necessary to properly reflect any capital gain rate differential under section 1(h) or 1201(a) and the computation of net capital gain.

(3) Definitions

For purposes of this subsection—

(A) Foreign source capital gain net income

The term "foreign source capital gain net income" means the lesser of—

- (i) capital gain net income from sources without the United States, or
- (ii) capital gain net income.

(B) Foreign source net capital gain

The term "foreign source net capital gain" means the lesser of—

- (i) net capital gain from sources without the United States, or
- (ii) net capital gain.

(C) Section 1231 gains

The term "gain from the sale or exchange of capital assets" includes any gain so treated under section 1231.

(D) Capital gain rate differential

There is a capital gain rate differential for any taxable year if—