

**§ 937. Residence and source rules involving possessions**

(Added Pub. L. 108-357, title VIII, § 908(a), Oct. 22, 2004, 118 Stat. 1655.)

**(a) Bona fide resident**

For purposes of this subpart, section 865(g)(3), section 876, section 881(b), paragraphs (2) and (3) of section 901(b), section 957(c), section 3401(a)(8)(C), and section 7654(a), except as provided in regulations, the term “bona fide resident” means a person—

(1) who is present for at least 183 days during the taxable year in Guam, American Samoa, the Northern Mariana Islands, Puerto Rico, or the Virgin Islands, as the case may be, and

(2) who does not have a tax home (determined under the principles of section 911(d)(3) without regard to the second sentence thereof) outside such specified possession during the taxable year and does not have a closer connection (determined under the principles of section 7701(b)(3)(B)(ii)) to the United States or a foreign country than to such specified possession.

For purposes of paragraph (1), the determination as to whether a person is present for any day shall be made under the principles of section 7701(b).

**(b) Source rules**

Except as provided in regulations, for purposes of this title—

(1) except as provided in paragraph (2), rules similar to the rules for determining whether income is income from sources within the United States or is effectively connected with the conduct of a trade or business within the United States shall apply for purposes of determining whether income is from sources within a possession specified in subsection (a)(1) or effectively connected with the conduct of a trade or business within any such possession, and

(2) any income treated as income from sources within the United States or as effectively connected with the conduct of a trade or business within the United States shall not be treated as income from sources within any such possession or as effectively connected with the conduct of a trade or business within any such possession.

**(c) Reporting requirement**

**(1) In general**

If, for any taxable year, an individual takes the position for United States income tax reporting purposes that the individual became, or ceases to be, a bona fide resident of a possession specified in subsection (a)(1), such individual shall file with the Secretary, at such time and in such manner as the Secretary may prescribe, notice of such position.

**(2) Transition rule**

If, for any of an individual’s 3 taxable years ending before the individual’s first taxable year ending after the date of the enactment of this subsection, the individual took a position described in paragraph (1), the individual shall file with the Secretary, at such time and in such manner as the Secretary may prescribe, notice of such position.

REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (c)(2), is the date of enactment of Pub. L. 108-357, which was approved Oct. 22, 2004.

EFFECTIVE DATE

Pub. L. 108-357, title VIII, § 908(d), Oct. 22, 2004, 118 Stat. 1657, provided that:

“(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section [enacting this section and amending sections 931, 932, 934, 935, 957, and 6688 of this title] shall apply to taxable years ending after the date of the enactment of this Act [Oct. 22, 2004].

“(2) 183-DAY RULE.—Section 937(a)(1) of the Internal Revenue Code of 1986 (as added by this section) shall apply to taxable years beginning after the date of the enactment of this Act.

“(3) SOURCING.—Section 937(b)(2) of such Code (as so added) shall apply to income earned after the date of the enactment of this Act.”

[SUBPART E—REPEALED]

**[§§ 941 to 943. Repealed. Pub. L. 108-357, title I, § 101(b)(1), Oct. 22, 2004, 118 Stat. 1423]**

Section 941, added Pub. L. 106-519, § 3(b), Nov. 15, 2000, 114 Stat. 2424, related to qualifying foreign trade income.

A prior section 941, acts Aug. 16, 1954, ch. 736, 68A Stat. 293; Oct. 4, 1976, Pub. L. 94-455, title X, § 1053(a), title XIX, § 1906(b)(1)(A), 90 Stat. 1648, 1834, set forth provisions authorizing special deduction for China Trade Act corporations, prior to repeal by Pub. L. 94-455, title X, § 1053(c), (e), Oct. 4, 1976, 90 Stat. 1649, effective with respect to taxable years beginning after Dec. 31, 1977.

Section 942, added Pub. L. 106-519, § 3(b), Nov. 15, 2000, 114 Stat. 2426, defined “foreign trading gross receipts” and set forth economic process requirements.

A prior section 942, act Aug. 16, 1954, ch. 736, 68A Stat. 294, disallowed foreign tax credit authorized by section 901 to any corporation organized under the China Trade Act, prior to repeal by Pub. L. 94-455, title X, § 1053(c), (e), Oct. 4, 1976, 90 Stat. 1649, effective with respect to taxable years beginning after Dec. 31, 1977.

Section 943, added Pub. L. 106-519, § 3(b), Nov. 15, 2000, 114 Stat. 2428; amended Pub. L. 107-147, title IV, § 417(14), Mar. 9, 2002, 116 Stat. 56, set forth other definitions and special rules for purposes of this subpart.

A prior section 943, acts Aug. 16, 1954, ch. 736, 68A Stat. 294; Oct. 4, 1976, Pub. L. 94-455, title X, § 1053(b), 90 Stat. 1648, set forth provisions relating to exclusion from gross income of residents of Formosa or Hong Kong of amounts distributed as dividends by China Trade Act corporations, prior to repeal by Pub. L. 94-455, title X, § 1053(c), (e), Oct. 4, 1976, 90 Stat. 1649, effective with respect to taxable years beginning after Dec. 31, 1977.

EFFECTIVE DATE OF REPEAL

Repeal applicable to transactions after Dec. 31, 2004, see section 101(c) of Pub. L. 108-357, set out as an Effective Date of 2004 Amendments note under section 56 of this title.

SUBPART F—CONTROLLED FOREIGN CORPORATIONS

Sec. 951.	Amounts included in gross income of United States shareholders.
952.	Subpart F income defined.
953.	Insurance income.
954.	Foreign base company income.

Sec.	
955.	Withdrawal of previously excluded subpart F income from qualified investment.
956.	Investment of earnings in United States property.
[956A.	Repealed.]
957.	Controlled foreign corporations; United States persons.
958.	Rules for determining stock ownership.
959.	Exclusion from gross income of previously taxed earnings and profits.
960.	Special rules for foreign tax credit.
961.	Adjustments to basis of stock in controlled foreign corporations and of other property.
962.	Election by individuals to be subject to tax at corporate rates.
[963.	Repealed.]
964.	Miscellaneous provisions.
965.	Temporary dividends received deduction.

## AMENDMENTS

2004—Pub. L. 108-357, title IV, § 422(c), Oct. 22, 2004, 118 Stat. 1519, added item 965.

1996—Pub. L. 104-188, title I, § 1501(c), Aug. 20, 1996, 110 Stat. 1826, which directed that the analysis for subpart F be amended by striking item 956A, could not be executed, because item 956A “Earnings invested in excess passive assets” had been editorially supplied.

1986—Pub. L. 99-514, title XII, § 1221(b)(3)(E), Oct. 22, 1986, 100 Stat. 2553, substituted “Insurance income” for “Income from insurance of United States risks” in item 953.

1975—Pub. L. 94-12, title VI, § 602(a)(3)(A), (c)(7), (d)(3)(B), Mar. 29, 1975, 89 Stat. 58, 60, 64, struck out existing item 955 and replaced it with an identical item 955 and struck out item 963 “Receipt of minimum distributions by domestic corporations”.

1962—Pub. L. 87-834, § 12(a), Oct. 16, 1962, 76 Stat. 1006, added heading of subpart F, and items 951-964.

### § 951. Amounts included in gross income of United States shareholders

#### (a) Amounts included

##### (1) In general

If a foreign corporation is a controlled foreign corporation for an uninterrupted period of 30 days or more during any taxable year, every person who is a United States shareholder (as defined in subsection (b)) of such corporation and who owns (within the meaning of section 958(a)) stock in such corporation on the last day, in such year, on which such corporation is a controlled foreign corporation shall include in his gross income, for his taxable year in which or with which such taxable year of the corporation ends—

(A) the sum of—

(i) his pro rata share (determined under paragraph (2)) of the corporation’s subpart F income for such year,

(ii) his pro rata share (determined under section 955(a)(3) as in effect before the enactment of the Tax Reduction Act of 1975) of the corporation’s previously excluded subpart F income withdrawn from investment in less developed countries for such year, and

(iii) his pro rata share (determined under section 955(a)(3)) of the corporation’s previously excluded subpart F income withdrawn from foreign base company shipping operations for such year; and

(B) the amount determined under section 956 with respect to such shareholder for such

year (but only to the extent not excluded from gross income under section 959(a)(2)).

#### (2) Pro rata share of subpart F income

The pro rata share referred to in paragraph (1)(A)(i) in the case of any United States shareholder is the amount—

(A) which would have been distributed with respect to the stock which such shareholder owns (within the meaning of section 958(a)) in such corporation if on the last day, in its taxable year, on which the corporation is a controlled foreign corporation it had distributed pro rata to its shareholders an amount (i) which bears the same ratio to its subpart F income for the taxable year, as (ii) the part of such year during which the corporation is a controlled foreign corporation bears to the entire year, reduced by

(B) the amount of distributions received by any other person during such year as a dividend with respect to such stock, but only to the extent of the dividend which would have been received if the distribution by the corporation had been the amount (i) which bears the same ratio to the subpart F income of such corporation for the taxable year, as (ii) the part of such year during which such shareholder did not own (within the meaning of section 958(a)) such stock bears to the entire year.

For purposes of subparagraph (B), any gain included in the gross income of any person as a dividend under section 1248 shall be treated as a distribution received by such person with respect to the stock involved.

#### (3) Limitation on pro rata share of previously excluded subpart F income withdrawn from investment

For purposes of paragraph (1)(A)(iii), the pro rata share of any United States shareholder of the previously excluded subpart F income of a controlled foreign corporation withdrawn from investment in foreign base company shipping operations shall not exceed an amount—

(A) which bears the same ratio to his pro rata share of such income withdrawn (as determined under section 955(a)(3)) for the taxable year, as

(B) the part of such year during which the corporation is a controlled foreign corporation bears to the entire year.

#### (b) United States shareholder defined

For purposes of this subpart, the term “United States shareholder” means, with respect to any foreign corporation, a United States person (as defined in section 957(c)) who 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.

#### (c) Coordination with passive foreign investment company provisions

If, but for this subsection, an amount would be included in the gross income of a United States shareholder for any taxable year both under subsection (a)(1)(A)(i) and under section 1293 (relating to current taxation of income from certain