

poration having related person insurance income (as defined in section 953(c)(2)), the Secretary may treat any person as a United States shareholder for purposes of this section if such person is treated as a United States shareholder under section 953(c)(1).

**(c) Determination of required year**

**(1) In general**

The required year is—

- (A) the majority U.S. shareholder year, or
- (B) if there is no majority U.S. shareholder year, the taxable year prescribed under regulations.

**(2) 1-month deferral allowed**

A specified foreign corporation may elect, in lieu of the taxable year under paragraph (1)(A), a taxable year beginning 1 month earlier than the majority U.S. shareholder year.

**(3) Majority U.S. shareholder year**

**(A) In general**

For purposes of this subsection, the term “majority U.S. shareholder year” means the taxable year (if any) which, on each testing day, constituted the taxable year of—

- (i) each United States shareholder described in subsection (b)(2)(A), and
- (ii) each United States shareholder not described in clause (i) whose stock was treated as owned under subsection (b)(2)(B) by any shareholder described in such clause.

**(B) Testing day**

The testing days shall be—

- (i) the first day of the corporation’s taxable year (determined without regard to this section), or
- (ii) the days during such representative period as the Secretary may prescribe.

(Added Pub. L. 101-239, title VII, §7401(a), Dec. 19, 1989, 103 Stat. 2355; amended Pub. L. 108-357, title IV, §413(c)(13), Oct. 22, 2004, 118 Stat. 1507.)

AMENDMENTS

2004—Subsec. (b)(1)(A). Pub. L. 108-357, §413(c)(13)(A), amended subpar. (A) generally. Prior to amendment, subpar (A) read as follows:

“(A) which is—

“(i) treated as a controlled foreign corporation for any purpose under subpart F of part III of this subchapter, or

“(ii) a foreign personal holding company (as defined in section 552), and”.

Subsec. (b)(2)(B). Pub. L. 108-357, §413(c)(13)(B), struck out “and sections 551(f) and 554, whichever are applicable,” after “section 958”.

Subsec. (b)(3). Pub. L. 108-357, §413(c)(13)(C), reenacted heading without change, struck out “(A) In general” before “The term”, and struck out heading and text of subpar. (B). Text read as follows: “In the case of any foreign personal holding company (as defined in section 552) which is not a specified foreign corporation by reason of paragraph (1)(A)(i), the term ‘United States shareholder’ means any person who is treated as a United States shareholder under section 551.”

Subsec. (c). Pub. L. 108-357, §413(c)(13)(D), reenacted heading without change and amended text of subsec. (c) generally, substituting provisions stating general rule and relating to 1-month deferral and majority U.S. shareholder year, consisting of pars. (1) to (3), for provisions stating general rule and relating to 1-month de-

ferred and majority U.S. shareholder year, consisting of par. (1), and provisions relating to required year in the case of a foreign personal holding company, consisting of par. (2).

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 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 section 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.

EFFECTIVE DATE

Pub. L. 101-239, title VII, §7401(d), Dec. 19, 1989, 103 Stat. 2357, provided that:

“(1) IN GENERAL.—The amendments made by this section [enacting this section and amending section 563 of this title] shall apply to taxable years of foreign corporations beginning after July 10, 1989.

“(2) SPECIAL RULES.—If any foreign corporation is required by the amendments made by this section to change its taxable year for its first taxable year beginning after July 10, 1989—

“(A) such change shall be treated as initiated by the taxpayer,

“(B) such change shall be treated as having been made with the consent of the Secretary of the Treasury or his delegate, and

“(C) if, by reason of such change, any United States person is required to include in gross income for 1 taxable year amounts attributable to 2 taxable years of such foreign corporation, the amount which would otherwise be required to be included in gross income for such 1 taxable year by reason of the short taxable year of the foreign corporation resulting from such change shall be included in gross income ratably over the 4-taxable-year period beginning with such 1 taxable year.”

PART III—INCOME FROM SOURCES WITHOUT THE UNITED STATES

Subpart

- A. Foreign tax credit.
- B. Earned income of citizens or residents of United States.
- [C. Repealed.]
- D. Possessions of the United States.
- [E. Repealed.]
- F. Controlled foreign corporations.
- [G. Repealed.]<sup>1</sup>
- H. Income of certain nonresident United States citizens subject to foreign community property laws.<sup>1</sup>
- I. Admissibility of documentation maintained in foreign countries.
- J. Foreign currency transactions.

AMENDMENTS

2004—Pub. L. 108-357, title I, §101(b)(2), Oct. 22, 2004, 118 Stat. 1423, struck out item for subpart E “Qualifying foreign trade income”.

2000—Pub. L. 106-519, §4(8), Nov. 15, 2000, 114 Stat. 2433, struck out item for subpart C “Taxation of foreign sales corporations”.

Pub. L. 106-519, §4(7), Nov. 15, 2000, 114 Stat. 2433, added item for subpart E and directed that former item for subpart E be struck out, which could not be executed because the item for subpart E had previously been struck out by Pub. L. 94-455, §1053(d)(5). See 1976 Amendment note below.

1986—Pub. L. 99-514, title XII, §1261(d), Oct. 22, 1986, 100 Stat. 2591, added item for subpart J.

1984—Pub. L. 98-369, div. A, title VIII, §802(c)(4), July 18, 1984, 98 Stat. 999, added item for subpart C.

<sup>1</sup> See 1976 Amendment note below.