

subsection (b) of this section [amending this section] shall apply with respect to taxable years beginning after December 31, 1953, and ending after August 16, 1954. No interest shall be allowed or paid on any overpayment resulting from the amendments made by subsections (a) and (b) of this section."

§ 906. Nonresident alien individuals and foreign corporations

(a) Allowance of credit

A nonresident alien individual or a foreign corporation engaged in trade or business within the United States during the taxable year shall be allowed a credit under section 901 for the amount of any income, war profits, and excess profits taxes paid or accrued during the taxable year (or deemed, under section 902, paid or accrued during the taxable year) to any foreign country or possession of the United States with respect to income effectively connected with the conduct of a trade or business within the United States.

(b) Special rules

(1) For purposes of subsection (a) and for purposes of determining the deductions allowable under sections 873(a) and 882(c), in determining the amount of any tax paid or accrued to any foreign country or possession there shall not be taken into account any amount of tax to the extent the tax so paid or accrued is imposed with respect to income from sources within the United States which would not be taxed by such foreign country or possession but for the fact that—

(A) in the case of a nonresident alien individual, such individual is a citizen or resident of such foreign country or possession, or

(B) in the case of a foreign corporation, such corporation was created or organized under the law of such foreign country or possession or is domiciled for tax purposes in such country or possession.

(2) For purposes of subsection (a), in applying section 904 the taxpayer's taxable income shall be treated as consisting only of the taxable income effectively connected with the taxpayer's conduct of a trade or business within the United States.

(3) The credit allowed pursuant to subsection (a) shall not be allowed against any tax imposed by section 871(a) (relating to income of nonresident alien individual not connected with United States business) or 881 (relating to income of foreign corporations not connected with United States business).

(4) For purposes of sections 902(a) and 78, a foreign corporation choosing the benefits of this subpart which receives dividends shall, with respect to such dividends, be treated as a domestic corporation.

(5) For purposes of section 902, any income, war profits, and excess profits taxes paid or accrued (or deemed paid or accrued) to any foreign country or possession of the United States with respect to income effectively connected with the conduct of a trade or business within the United States shall not be taken into account, and any accumulated profits attributable to such income shall not be taken into account.

(6) No credit shall be allowed under this section against the tax imposed by section 884.

(Added Pub. L. 89-809, title I, § 106(a)(1), Nov. 13, 1966, 80 Stat. 1568; amended Pub. L. 98-369, div. A, title VIII, § 801(d)(3), July 18, 1984, 98 Stat. 996; Pub. L. 99-514, title XII, § 1241(c), title XVIII, § 1876(d)(3), Oct. 22, 1986, 100 Stat. 2580, 2899; Pub. L. 100-647, title I, § 1012(q)(10), Nov. 10, 1988, 102 Stat. 3524; Pub. L. 110-172, § 11(g)(11), Dec. 29, 2007, 121 Stat. 2490.)

AMENDMENTS

2007—Subsec. (b)(5) to (7). Pub. L. 110-172 redesignated pars. (6) and (7) as (5) and (6), respectively, and struck out former par. (5) which read as follows: "No credit shall be allowed under this section for any income, war profits, and excess profits taxes paid or accrued with respect to the foreign trade income (within the meaning of section 923(b)) of a FSC."

1988—Subsec. (b)(6), (7). Pub. L. 100-647 redesignated par. (6), relating to credit against tax imposed by section 884, as (7).

1986—Subsec. (b)(6). Pub. L. 99-514, § 1876(d)(3), added par. (6) relating to credit for income, war profits, and excess profits taxes paid or accrued to a foreign country or possession of the United States.

Pub. L. 99-514, § 1241(c), added par. (6) relating to credit against tax imposed by section 884.

1984—Subsec. (b)(5). Pub. L. 98-369 added par. (5).

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 1986 AMENDMENT

Amendment by section 1241(c) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 1241(e) of Pub. L. 99-514, set out as an Effective Date note under section 884 of this title.

Amendment by section 1876(d)(3) of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to transactions after Dec. 31, 1984, in taxable years ending after such date, see section 805(a)(1) of Pub. L. 98-369, as amended, set out as a note under section 245 of this title.

EFFECTIVE DATE

Section applicable with respect to taxable years beginning after Dec. 31, 1966, and, in applying section 904 of this title with respect to this section, no amount to be carried from or to any taxable year beginning before Jan. 1, 1967, and no such year to be taken into account, see section 106(a)(6) of Pub. L. 89-809, set out as an Effective Date of 1966 Amendment note under section 874 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101-1147 and 1171-1177] or title XVIII [§§ 1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

§ 907. Special rules in case of foreign oil and gas income

(a) Reduction in amount allowed as foreign tax under section 901

In applying section 901, the amount of any foreign oil and gas taxes paid or accrued (or deemed to have been paid) during the taxable year which would (but for this subsection) be taken into account for purposes of section 901 shall be reduced by the amount (if any) by which the amount of such taxes exceeds the product of—

- (1) the amount of the combined foreign oil and gas income for the taxable year,
- (2) multiplied by—

(A) in the case of a corporation, the percentage which is equal to the highest rate of tax specified under section 11(b), or

(B) in the case of an individual, a fraction the numerator of which is the tax against which the credit under section 901(a) is taken and the denominator of which is the taxpayer's entire taxable income.

(b) Combined foreign oil and gas income; foreign oil and gas taxes

For purposes of this section—

(1) Combined foreign oil and gas income

The term “combined foreign oil and gas income” means, with respect to any taxable year, the sum of—

- (A) foreign oil and gas extraction income, and
- (B) foreign oil related income.

(2) Foreign oil and gas taxes

The term “foreign oil and gas taxes” means, with respect to any taxable year, the sum of—

- (A) oil and gas extraction taxes, and
- (B) any income, war profits, and excess profits taxes paid or accrued (or deemed to have been paid or accrued under section 902 or 960) during the taxable year with respect to foreign oil related income (determined without regard to subsection (c)(4)) or loss which would be taken into account for purposes of section 901 without regard to this section.

(c) Foreign income definitions and special rules

For purposes of this section—

(1) Foreign oil and gas extraction income

The term “foreign oil and gas extraction income” means the taxable income derived from sources without the United States and its possessions from—

- (A) the extraction (by the taxpayer or any other person) of minerals from oil or gas wells, or
- (B) the sale or exchange of assets used by the taxpayer in the trade or business described in subparagraph (A).

Such term does not include any dividend or interest income which is passive income (as defined in section 904(d)(2)(A)).

(2) Foreign oil related income

The term “foreign oil related income” means the taxable income derived from sources outside the United States and its possessions from—

(A) the processing of minerals extracted (by the taxpayer or by any other person) from oil or gas wells into their primary products,

(B) the transportation of such minerals or primary products,

(C) the distribution or sale of such minerals or primary products,

(D) the disposition of assets used by the taxpayer in the trade or business described in subparagraph (A), (B), or (C), or

(E) the performance of any other related service.

Such term does not include any dividend or interest income which is passive income (as defined in section 904(d)(2)(A)).

(3) Dividends, interest, partnership distribution, etc.

The term “foreign oil and gas extraction income” and the term “foreign oil related income” include—

(A) dividends and interest from a foreign corporation in respect of which taxes are deemed paid by the taxpayer under section 902,

(B) amounts with respect to which taxes are deemed paid under section 960(a), and

(C) the taxpayer's distributive share of the income of partnerships.¹

to the extent such dividends, interest, amounts, or distributive share is attributable to foreign oil and gas extraction income, or to foreign oil related income, as the case may be; except that interest described in subparagraph (A) shall not be taken into account in computing foreign oil and gas extraction income but shall be taken into account in computing foreign oil-related income.

(4) Recapture of foreign oil and gas losses by recharacterizing later combined foreign oil and gas income

(A) In general

The combined foreign oil and gas income of a taxpayer for a taxable year (determined without regard to this paragraph) shall be reduced—

- (i) first by the amount determined under subparagraph (B), and
- (ii) then by the amount determined under subparagraph (C).

The aggregate amount of such reductions shall be treated as income (from sources without the United States) which is not combined foreign oil and gas income.

(B) Reduction for pre-2009 foreign oil extraction losses

The reduction under this paragraph shall be equal to the lesser of—

- (i) the foreign oil and gas extraction income of the taxpayer for the taxable year (determined without regard to this paragraph), or
- (ii) the excess of—

(I) the aggregate amount of foreign oil extraction losses for preceding taxable

¹ So in original. The period probably should be a comma.