

**§ 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.<sup>1</sup>

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

<sup>1</sup> So in original. The period probably should be a comma.

years beginning after December 31, 1982, and before January 1, 2009, over

(II) so much of such aggregate amount as was recharacterized under this paragraph (as in effect before and after the date of the enactment of the Energy Improvement and Extension Act of 2008) for preceding taxable years beginning after December 31, 1982.

**(C) Reduction for post-2008 foreign oil and gas losses**

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

(i) the combined foreign oil and gas income of the taxpayer for the taxable year (determined without regard to this paragraph), reduced by an amount equal to the reduction under subparagraph (A) for the taxable year, or

(ii) the excess of—

(I) the aggregate amount of foreign oil and gas losses for preceding taxable years beginning after December 31, 2008, over

(II) so much of such aggregate amount as was recharacterized under this paragraph for preceding taxable years beginning after December 31, 2008.

**(D) Foreign oil and gas loss defined**

**(i) In general**

For purposes of this paragraph, the term “foreign oil and gas loss” means the amount by which—

(I) the gross income for the taxable year from sources without the United States and its possessions (whether or not the taxpayer chooses the benefits of this subpart for such taxable year) taken into account in determining the combined foreign oil and gas income for such year, is exceeded by

(II) the sum of the deductions properly apportioned or allocated thereto.

**(ii) Net operating loss deduction not taken into account**

For purposes of clause (i), the net operating loss deduction allowable for the taxable year under section 172(a) shall not be taken into account.

**(iii) Expropriation and casualty losses not taken into account**

For purposes of clause (i), there shall not be taken into account—

(I) any foreign expropriation loss (as defined in section 172(h) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)) for the taxable year, or

(II) any loss for the taxable year which arises from fire, storm, shipwreck, or other casualty, or from theft,

to the extent such loss is not compensated for by insurance or otherwise.

**(iv) Foreign oil extraction loss**

For purposes of subparagraph (B)(ii)(I), foreign oil extraction losses shall be determined under this paragraph as in effect on

the day before the date of the enactment of the Energy Improvement and Extension Act of 2008.

**(5) Oil and gas extraction taxes**

The term “oil and gas extraction taxes” means any income, war profits, and excess profits tax paid or accrued (or deemed to have been paid under section 902 or 960) during the taxable year with respect to foreign oil and gas extraction income (determined without regard to paragraph (4)) or loss which would be taken into account for purposes of section 901 without regard to this section.

**(d) Disregard of certain posted prices, etc.**

For purposes of this chapter, in determining the amount of taxable income in the case of foreign oil and gas extraction income, if the oil or gas is disposed of, or is acquired other than from the government of a foreign country, at a posted price (or other pricing arrangement) which differs from the fair market value for such oil or gas, such fair market value shall be used in lieu of such posted price (or other pricing arrangement).

**[(e) Repealed. Pub. L. 101-508, title XI, § 11801(a)(32), Nov. 5, 1990, 104 Stat. 1388-521]**

**(f) Carryback and carryover of disallowed credits**

**(1) In general**

If the amount of the foreign oil and gas taxes paid or accrued during any taxable year exceeds the limitation provided by subsection (a) for such taxable year (hereinafter in this subsection referred to as the “unused credit year”), such excess shall be deemed to be foreign oil and gas taxes paid or accrued in the first preceding taxable year and in any of the first 10 succeeding taxable year,<sup>2</sup> in that order and to the extent not deemed tax paid or accrued in a prior taxable year by reason of the limitation imposed by paragraph (2). Such amount deemed paid or accrued in any taxable year may be availed of only as a tax credit and not as a deduction and only if the taxpayer for such year chooses to have the benefits of this subpart as to taxes paid or accrued for that year to foreign countries or possessions.

**(2) Limitation**

The amount of the unused foreign oil and gas taxes which under paragraph (1) may be deemed paid or accrued in any preceding or succeeding taxable year shall not exceed the lesser of—

(A) the amount by which the limitation provided by subsection (a) for such taxable year exceeds the sum of—

(i) the foreign oil and gas taxes paid or accrued during such taxable year, plus

(ii) the amounts of the foreign oil and gas taxes which by reason of this subsection are deemed paid or accrued in such taxable year and are attributable to taxable years preceding the unused credit year; or

<sup>2</sup> So in original. Probably should be “years.”

(B) the amount by which the limitation provided by section 904 for such taxable year exceeds the sum of—

(i) the taxes paid or accrued (or deemed to have been paid under section 902 or 960) to all foreign countries and possessions of the United States during such taxable year,

(ii) the amount of such taxes which were deemed paid or accrued in such taxable year under section 904(c) and which are attributable to taxable years preceding the unused credit year, plus

(iii) the amount of the foreign oil and gas taxes which by reason of this subsection are deemed paid or accrued in such taxable year and are attributable to taxable years preceding the unused credit year.

### (3) Special rules

(A) In the case of any taxable year which is an unused credit year under this subsection and which is an unused credit year under section 904(c), the provisions of this subsection shall be applied before section 904(c).

(B) For purposes of determining the amount of taxes paid or accrued in any taxable year which may be deemed paid or accrued in a preceding or succeeding taxable year under section 904(c), any tax deemed paid or accrued in such preceding or succeeding taxable year under this subsection shall be considered to be tax paid or accrued in such preceding or succeeding taxable year.

### (4) Transition rules for pre-2009 and 2009 disallowed credits

#### (A) Pre-2009 credits

In the case of any unused credit year beginning before January 1, 2009, this subsection, as in effect on the day before the date of the enactment of the Energy Improvement and Extension Act of 2008, shall apply to unused oil and gas extraction taxes carried from such unused credit year to a taxable year beginning after December 31, 2008.

#### (B) 2009 credits

In the case of any unused credit year beginning in 2009, the amendments made to this subsection by the Energy Improvement and Extension Act of 2008 shall be treated as being in effect for any preceding year beginning before January 1, 2009, solely for purposes of determining how much of the unused foreign oil and gas taxes for such unused credit year may be deemed paid or accrued in such preceding year.

(Added Pub. L. 94-12, title VI, § 601(a), Mar. 29, 1975, 89 Stat. 54; amended Pub. L. 94-455, title X, §§ 1031(b)(6), 1032(b), 1035(a), (b), (d)(1), (2), 1052(c)(4), Oct. 4, 1976, 90 Stat. 1623, 1626, 1630-1632, 1648; Pub. L. 95-600, title III, § 301(b)(14), title VII, § 701(u)(8)(A), (B), Nov. 6, 1978, 92 Stat. 2822, 2916; Pub. L. 97-248, title II, § 211(a)-(c)(1), (d), Sept. 3, 1982, 96 Stat. 448-450; Pub. L. 100-647, title I, § 1012(g)(6), Nov. 10, 1988, 102 Stat. 3501; Pub. L. 101-508, title XI, § 11801(a)(32), Nov. 5, 1990, 104 Stat. 1388-521; Pub.

L. 103-66, title XIII, § 13235(a)(1), Aug. 10, 1993, 107 Stat. 504; Pub. L. 104-188, title I, § 1704(t)(36), Aug. 20, 1996, 110 Stat. 1889; Pub. L. 108-357, title IV, § 417(b), Oct. 22, 2004, 118 Stat. 1512; Pub. L. 110-343, div. B, title IV, § 402(a)-(c), Oct. 3, 2008, 122 Stat. 3852, 3854; Pub. L. 113-295, div. A, title II, § 210(e), Dec. 19, 2014, 128 Stat. 4031.)

#### REFERENCES IN TEXT

The date of the enactment of the Energy Improvement and Extension Act of 2008, referred to in subsecs. (c)(4)(B)(ii)(II), (D)(iv) and (f)(4)(A), is the date of enactment of div. B of Pub. L. 110-343, which was approved Oct. 3, 2008.

Section 172(h), referred to in subsec. (c)(4)(D)(iii)(I), was repealed by Pub. L. 101-508, title XI, § 11811(b)(1), Nov. 5, 1990, 104 Stat. 1388-532.

The date of the enactment of the Revenue Reconciliation Act of 1990, referred to in subsec. (c)(4)(D)(iii)(I), is the date of enactment of Pub. L. 101-508, title XI, which was approved Nov. 5, 1990.

The Energy Improvement and Extension Act of 2008, referred to in subsec. (f)(4)(B), is div. B of Pub. L. 110-343, Oct. 3, 2008, 122 Stat. 3807. For the amendments made to subsec. (f) of this section by the Act, see 2008 Amendment notes below.

#### AMENDMENTS

2014—Subsec. (f)(4)(A). Pub. L. 113-295 substituted “this subsection, as in effect on the day before the date of the enactment of the Energy Improvement and Extension Act of 2008, shall apply to unused oil and gas extraction taxes carried from such unused credit year to a taxable year beginning after December 31, 2008.” for “this subsection shall be applied to any unused oil and gas extraction taxes carried from such unused credit year to a year beginning after December 31, 2008—

“(i) by substituting ‘oil and gas extraction taxes’ for ‘foreign oil and gas taxes’ each place it appears in paragraphs (1), (2), and (3), and

“(ii) by computing, for purposes of paragraph (2)(A), the limitation under subparagraph (A) for the year to which such taxes are carried by substituting ‘foreign oil and gas extraction income’ for ‘foreign oil and gas income’ in subsection (a).”

2008—Subsecs. (a), (b). Pub. L. 110-343, § 402(a), amended subsecs. (a) and (b) generally. Prior to amendment, subsec. (a) related to reduction in amount of oil and gas extraction taxes paid or accrued for purposes of section 901 and subsec. (b) excepted certain amounts of foreign oil related income taxes paid or accrued to any foreign country from the definition of “income, war profits, and excess profits taxes”.

Subsec. (c)(4). Pub. L. 110-343, § 402(b), amended par. (4) generally. Prior to amendment, par. (4) provided for recapture of foreign oil and gas extraction losses by recharacterizing later extraction income.

Subsec. (f). Pub. L. 110-343, § 402(c)(1), substituted “foreign oil and gas taxes” for “oil and gas extraction taxes” wherever appearing.

Subsec. (f)(4). Pub. L. 110-343, § 402(c)(2), added par. (4).

2004—Subsec. (f)(1). Pub. L. 108-357, § 417(b)(3), struck out at end “For purposes of this subsection, the terms ‘second preceding taxable year’, and ‘first preceding taxable year’ do not include any taxable year ending before January 1, 1975.”

Pub. L. 108-357, § 417(b)(2), substituted “and in any of the first 10” for “”, and in the first, second, third, fourth, or fifth”.

Pub. L. 108-357, § 417(b)(1), struck out “in the second preceding taxable year,” before “in the first preceding taxable year”.

1996—Subsec. (c)(4)(B)(iii)(I). Pub. L. 104-188 inserted “(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)” after “section 172(h)”.

1993—Subsec. (c)(1), (2). Pub. L. 103-66 inserted concluding provisions.

1990—Subsec. (e). Pub. L. 101-508, §11801(a)(32), struck out subsec. (e) which read as follows:

“(1) CREDITS ARISING IN TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1983.—The amount of taxes paid or accrued in any taxable year beginning before January 1, 1983 (hereinafter in this paragraph referred to as the ‘excess credit year’) which under section 904(c) or 907(f) may be deemed paid or accrued in a taxable year beginning after December 31, 1982, shall not exceed the amount which could have been deemed paid or accrued if sections 907(b), 907(f), and 904(f)(4) (as in effect on the day before the date of the enactment of the Tax Equity and Fiscal Responsibility Act of 1982) remained in effect for taxable years beginning after December 31, 1982.”

“(2) CARRYBACK OF CREDITS ARISING IN TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1982.—The amount of the taxes paid or accrued in a taxable year beginning after December 31, 1982, which may be deemed paid or accrued under section 904(c) or 907(f) in a taxable year beginning before January 1, 1983, shall not exceed the amount which could have been deemed paid or accrued if sections 907(b), 907(f), and 904(f)(4) (as in effect on the day before the date of the enactment of the Tax Equity and Fiscal Responsibility Act of 1982) remained in effect for taxable years beginning after December 31, 1982.”

Subsec. (f)(3)(C). Pub. L. 101-508, §11801(a)(32), struck out subpar. (C) which read as follows: “For purposes of determining the amount of the unused oil and gas extraction taxes which under paragraph (1) may be deemed paid or accrued in any taxable year ending before January 1, 1977, subparagraph (A) of paragraph (2) shall be applied as if the amendment made by section 1035(a) of the Tax Reform Act of 1976 applied to such taxable year.”

1988—Subsec. (c)(3). Pub. L. 100-647, §1012(g)(6)(B), struck out “and dividends described in subparagraph (B)” after “described in subparagraph (A)” in closing provisions.

Subsec. (c)(3)(B) to (D). Pub. L. 100-647, §1012(g)(6)(A), redesignated subpars. (C) and (D) as (B) and (C), respectively, and struck out former subpar. (B) which read as follows: “dividends from a domestic corporation which are treated under section 861(a)(2)(A) as income from sources without the United States.”

1982—Subsec. (b). Pub. L. 97-248, §211(c)(1), added subsec. (b). Former subsec. (b), which had provided that section 904 be applied separately with respect to foreign oil related income and other taxable income, was struck out.

Subsec. (c)(2). Pub. L. 97-248, §211(b), in subpar. (A) substituted “the processing of minerals extracted (by the taxpayer or by any other person) from oil or gas wells into their primary products” for “the extraction (by the taxpayer or any other person) of minerals from oil or gas wells”, deleted subpar. (B) which had provided that foreign oil related income meant the taxable income derived from sources outside the United States and its possessions from the processing of minerals from oil or gas wells into their primary products, redesignated subpar. (C) as (B), redesignated subpar. (D) as (C) and in subpar. (C) as so redesignated struck out “or” at the end, redesignated subpar. (E) as (D) and in subpar. (D) as so redesignated substituted “disposition” for “sale or exchange”, and “or (C), or” for “(C), or (D)”, struck out the period at the end, and added subpar. (E).

Subsec. (c)(4). Pub. L. 97-248, §211(a), substituted provisions regarding the recapture of foreign oil and gas extraction losses by recharacterization of later extraction income for provisions that if, for any foreign country for any taxable year, the taxpayer would have had a net operating loss if only items from sources within such country (including deductions properly apportioned or allocated thereto) which related to the extraction of minerals from oil or gas wells had been taken into account, such items would not be taken into account in computing foreign oil and gas extraction income for such year, but would be taken into account in computing foreign oil related income for such year.

Subsec. (e). Pub. L. 97-248, §211(d)(1), substituted rules regarding credits arising in taxable years beginning before Jan. 1, 1983, for rules regarding taxable years ending after Dec. 31, 1974, in par. (1), and in par. (2) substituted rules regarding carryback of credits arising in taxable years beginning after Dec. 31, 1982, for rules regarding taxable years ending after Dec. 31, 1975.

Subsec. (f)(1). Pub. L. 97-248, §211(d)(2)(A), substituted “such excess” for “so much of such excess as does not exceed 2 percent of foreign oil and gas extraction income for such taxable year” in first sentence, and struck out former provision that had directed that the above substitution be made regarding taxes deemed paid or accrued in any taxable year which ended in 1975, 1976, or 1977.

Subsec. (f)(2)(B). Pub. L. 97-248, §211(d)(2)(B)(i), substituted “provided by section 904 for such taxable year” for “provided by section 904 on taxes paid or accrued with respect to foreign oil-related income for such taxable year” in the introductory provisions, and in cl. (i) substituted “the United States during such taxable year” for “the United States with respect to such income during such taxable year”.

Subsec. (f)(3)(A). Pub. L. 97-248, §211(d)(2)(B)(ii), substituted “section 904(c)” for “section 904(c) with respect to oil-related income”.

Subsec. (f)(3)(B). Pub. L. 97-248, §211(d)(2)(B)(iii), struck out “oil-related” after “determining the amount of”.

1978—Subsec. (a)(2). Pub. L. 95-600, §§301(b)(14), 701(u)(8)(A), designated existing provisions as subpar. (A), inserted applicability to corporations and generally reworked applicable formula, and added subpar. (B).

Subsec. (b). Pub. L. 95-600, §701(u)(8)(B), substituted provisions relating to applicability of section 904 separately to foreign oil related income and other taxable income for provisions relating to applicability of section 904 to corporations and other taxpayers.

1976—Subsec. (a). Pub. L. 94-455, §1035(a), substituted “oil and gas extraction taxes” for “income, war profits, and excess profits taxes” after “the amount of any” and, in par. (2), substituted “the percentage which is the sum of the normal tax rate and the surtax rate for the taxable year specified in section 11” for provisions giving the percentage multiplier for years ending 1975, 1976, and after 1976.

Subsec. (b). Pub. L. 94-455, §§1032(b)(1), 1035(b), inserted provisions making a distinction between corporations and other taxpayers and rules applicable to each and, as amended, struck out provision requiring the overall limitation, rather than the per-country limitation, be applied in the case of a corporation to foreign oil-related income and, a taxpayer other than a corporation, to foreign oil and gas extraction income.

Subsec. (c)(5). Pub. L. 94-455, §1035(d)(2), added par. (5).

Subsec. (e)(1). Pub. L. 94-455, §1031(b)(6)(A), substituted “(d) and (e) of section 904 (as in effect on the day before the date of enactment of the Tax Reform Act of 1976)” for “(d) and (e) of section 904” after “In applying subsections”.

Subsec. (e)(2). Pub. L. 94-455, §1031(b)(6), substituted “(d) and (e) of section 904 (as in effect on the day before the date of enactment of the Tax Reform Act of 1976)” for “(d) and (e) of section 904” after “In applying subsections”, “section 904(a)(1) (as so in effect)” for “section 904(a)(1)” after “provided by section” and, in subpar. (A), “section 904(e)(2) (as so in effect)” for “section 904(e)(2)” after “sentence of section”.

Subsec. (f). Pub. L. 94-455, §§1032(b)(2), 1035(d)(1), added subsec. (f). Former subsec. (f), relating to recapture of foreign oil related loss, was struck out.

Subsec. (g). Pub. L. 94-455, §§1032(b)(2), 1035(d)(1), 1052(c)(4), struck out subsec. (g) relating to Western Hemisphere trade corporations which are members of an affiliated group.

#### EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 effective as if included in the provisions of the Energy Improvement and Ex-

tension Act of 2008, Pub. L. 110-343, div. B, to which such amendment relates, see section 210(h) of Pub. L. 113-295, set out as a note under section 45 of this title.

#### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-343, div. B, title IV, §402(e), Oct. 3, 2008, 122 Stat. 3854, provided that: "The amendments made by this section [amending this section and section 6501 of this title] shall apply to taxable years beginning after December 31, 2008."

#### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 417(b)(1) of Pub. L. 108-357 applicable to excess foreign taxes arising in taxable years beginning after Oct. 22, 2004, and amendment by section 417(b)(2) of Pub. L. 108-357 applicable to excess foreign taxes which may be carried to any taxable year ending after Oct. 22, 2004, see section 417(c) of Pub. L. 108-357, set out as a note under section 904 of this title.

#### EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 applicable to taxable years beginning after Dec. 31, 1992, see section 13235(c) of Pub. L. 103-66, set out as a note under section 904 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 1982 AMENDMENT

Pub. L. 97-248, title II, §211(e), Sept. 3, 1982, 96 Stat. 450, as amended by Pub. L. 97-448, title III, §306(a)(5), 96 Stat. 2401; Pub. L. 98-369, div. A, title VII, §712(e), July 18, 1984, 98 Stat. 947, provided that:

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and section 904 of this title] shall apply to taxable years beginning after December 31, 1982.

"(2) RETENTION OF OLD SECTIONS 907(b) AND 904(f)(4) WHERE TAXPAYER HAD SEPARATE BASKET FOREIGN LOSS.—

"(A) IN GENERAL.—If, after applying old sections 907(b) and 904(f)(4) to a taxable year beginning before January 1, 1983, the taxpayer had a separate basket foreign loss, such loss shall not be recaptured from income of a kind not taken into account in computing the amount of such separate basket foreign loss more rapidly than ratably over the 8-year period (or such shorter period as the taxpayer may select) beginning with the first taxable year beginning after December 31, 1982.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) The term 'separate basket foreign loss' means any foreign loss attributable to activities taken into account (or not taken into account) in determining foreign oil related income (as defined in old section 907(c)(2)).

"(ii) An 'old' section is such section as in effect on the day before the date of the enactment of this Act [Sept. 3, 1982]."

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 301(b)(14) of Pub. L. 95-600 applicable to taxable years beginning after Dec. 31, 1978, see section 301(c) of Pub. L. 95-600, set out as a note under section 11 of this title.

Pub. L. 95-600, title VII, §701(u)(8)(D), Nov. 6, 1978, 92 Stat. 2916, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

"(i) The amendments made by this paragraph [amending this section and section 904 of this title] shall apply, in the case of individuals, to taxable years ending after December 31, 1974, and, in the case of corporations, to taxable years ending after December 31, 1976.

"(ii) In the case of any taxable year ending after December 31, 1975, with respect to foreign oil related income (within the meaning of section 907(c) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]), the overall limitation provided by section 904(a)(2) of such Code shall apply and the per-country limitation provided by section 904(a)(1) of such Code shall not apply."

#### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1031(b)(6)(A) of Pub. L. 94-455 applicable to taxable years beginning after Dec. 31, 1975, with exceptions for certain mining operations, income from possessions, and carryback and carryover in the case of mining operations and income from a possession, see section 1031(c) of Pub. L. 94-455, set out as a note under section 904 of this title.

Amendment by section 1032(b)(1) of Pub. L. 94-455 applicable to taxable years beginning after Dec. 31, 1975, and amendment by section 1032(b)(2) of Pub. L. 94-455 applicable to losses sustained in taxable years beginning after Dec. 31, 1975, see section 1032(c) of Pub. L. 94-455, set out as a note under section 904 of this title.

Pub. L. 94-455, title X, §1035(e), Oct. 4, 1976, 90 Stat. 1633, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

"(1) The amendment made by subsection (a) [amending this section] shall apply to taxable years ending after December 31, 1976.

"(2) The amendment made by subsection (b) [amending this section] shall apply to taxable years ending after December 31, 1974; except that the last sentence of section 907(b) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] shall only apply to taxable years ending after December 31, 1975.

"(3) The amendment made by subsection (c) [enacting provisions set out below] shall apply to taxable years beginning after June 29, 1976.

"(4) The amendments made by subsection (d) [amending this section] shall apply to taxes paid or accrued during taxable years ending after the date of the enactment of this Act [Oct. 4, 1976]."

Amendment by section 1052(c)(4) of Pub. L. 94-455 effective with respect to taxable years beginning after December 31, 1979, see section 1052(d) of Pub. L. 94-455, set out as a note under section 170 of this title.

#### EFFECTIVE DATE

Pub. L. 94-12, title VI, §601(d), Mar. 29, 1975, 89 Stat. 58, provided that: "The amendments made by this section [enacting this section and amending section 901 of this title] shall apply to taxable years ending after December 31, 1974; except that—

"(1) the second sentence of section 907(b) shall apply to taxable years ending after December 31, 1975, and

"(2) the provisions of section 907(f) shall apply to losses sustained in taxable years ending after December 31, 1975."

#### SAVINGS PROVISION

For provisions that nothing in amendment by 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.

#### TAX CREDIT FOR PRODUCTION-SHARING CONTRACTS

Pub. L. 94-455, title X, §1035(c), Oct. 4, 1976, 90 Stat. 1631, as amended by Pub. L. 95-600, title VII, §§701(u)(9), 703(h)(1), Nov. 6, 1978, 92 Stat. 2916, 2940; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

"(1) For purposes of section 901 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], there shall be treated as income, war profits, and excess profits taxes to be taken into account under section 907(a) of such Code amounts designated as income taxes of a foreign

government by such government (which otherwise would not be treated as taxes for purposes of section 901 of such Code) with respect to production-sharing contracts for the extraction of foreign oil or gas.

“(2) The amounts specified in paragraph (1) shall not exceed the lesser of—

“(A) the product of the foreign oil and gas extraction income (as defined in section 907(c) of such Code) with respect to all such production-sharing contracts multiplied by the sum of the normal tax rate and the surtax rate for the taxable year specified in section 11 of such Code, or

“(B) the excess of the total amount of foreign oil and gas extraction income (as so defined) for the taxable year multiplied by the sum of the normal tax rate and the surtax rate for the taxable year specified in section 11 of such Code over the amount of any income, war profits, and excess profits taxes paid or accrued (or deemed to have been paid) without regard to paragraph (1) during the taxable year with respect to foreign oil and gas extraction income.

“(3) The production-sharing contracts taken into account for purposes of paragraph (1) shall be those contracts which were entered into before April 8, 1976, for the sharing of foreign oil and gas production with a foreign government (or an entity owned by such government) with respect to which amounts claimed as taxes paid or accrued to such foreign government for taxable years beginning before June 30, 1976, will not be disallowed as taxes. A contract described in the preceding sentence shall be taken into account under paragraph (1) only with respect to amounts (A) paid or accrued to the foreign government before January 1, 1978, and (B) attributable to income earned before such date.”

#### **§ 908. Reduction of credit for participation in or cooperation with an international boycott**

##### **(a) In general**

If a person, or a member of a controlled group (within the meaning of section 993(a)(3)) which includes such person, participates in or cooperates with an international boycott during the taxable year (within the meaning of section 999(b)), the amount of the credit allowable under section 901 to such person, or under section 902 or 960 to United States shareholders of such person, for foreign taxes paid during the taxable year shall be reduced by an amount equal to the product of—

(1) the amount of the credit which, but for this section, would be allowed under section 901 for the taxable year, multiplied by

(2) the international boycott factor (determined under section 999).

##### **(b) Application with sections 275(a)(4) and 78**

Section 275(a)(4) and section 78 shall not apply to any amount of taxes denied credit under subsection (a).

(Added Pub. L. 94-455, title X, §1061(a), Oct. 4, 1976, 90 Stat. 1649.)

##### EFFECTIVE DATE

Pub. L. 94-455, title X, §1066(a), Oct. 4, 1976, 90 Stat. 1654, provided that:

“(1) GENERAL RULE.—The amendments made by this part (other than by section 1065) [enacting this section and section 999 of this title and amending sections 952 and 995 of this title] apply to participation in or cooperation with an international boycott more than 30 days after the date of enactment of this Act [Oct. 4, 1976].

“(2) EXISTING CONTRACTS.—In the case of operations which constitute participation in or cooperation with an international boycott and which are carried out in

accordance with the terms of a binding contract entered into before September 2, 1976, the amendments made by this part (other than by section 1065) apply to such participation or cooperation after December 31, 1977.”

#### **§ 909. Suspension of taxes and credits until related income taken into account**

##### **(a) In general**

If there is a foreign tax credit splitting event with respect to a foreign income tax paid or accrued by the taxpayer, such tax shall not be taken into account for purposes of this title before the taxable year in which the related income is taken into account under this chapter by the taxpayer.

##### **(b) Special rules with respect to section 902 corporations**

If there is a foreign tax credit splitting event with respect to a foreign income tax paid or accrued by a section 902 corporation, such tax shall not be taken into account—

(1) for purposes of section 902 or 960, or

(2) for purposes of determining earnings and profits under section 964(a),

before the taxable year in which the related income is taken into account under this chapter by such section 902 corporation or a domestic corporation which meets the ownership requirements of subsection (a) or (b) of section 902 with respect to such section 902 corporation.

##### **(c) Special rules**

For purposes of this section—

##### **(1) Application to partnerships, etc.**

In the case of a partnership, subsections (a) and (b) shall be applied at the partner level. Except as otherwise provided by the Secretary, a rule similar to the rule of the preceding sentence shall apply in the case of any S corporation or trust.

##### **(2) Treatment of foreign taxes after suspension**

In the case of any foreign income tax not taken into account by reason of subsection (a) or (b), except as otherwise provided by the Secretary, such tax shall be so taken into account in the taxable year referred to in such subsection (other than for purposes of section 986(a)) as a foreign income tax paid or accrued in such taxable year.

##### **(d) Definitions**

For purposes of this section—

##### **(1) Foreign tax credit splitting event**

There is a foreign tax credit splitting event with respect to a foreign income tax if the related income is (or will be) taken into account under this chapter by a covered person.

##### **(2) Foreign income tax**

The term “foreign income tax” means any income, war profits, or excess profits tax paid or accrued to any foreign country or to any possession of the United States.

##### **(3) Related income**

The term “related income” means, with respect to any portion of any foreign income tax, the income (or, as appropriate, earnings and profits) to which such portion of foreign income tax relates.