

under section 958(a)(2) as owning any stock in a controlled foreign corporation which is actually owned by another controlled foreign corporation, adjustments similar to the adjustments provided by subsections (a) and (b) shall be made to the basis of such stock in the hands of such other controlled foreign corporation, but only for the purposes of determining the amount included under section 951 in the gross income of such United States shareholder (or any other United States shareholder who acquires from any person any portion of the interest of such United States shareholder by reason of which such shareholder was treated as owning such stock, but only to the extent of such portion, and subject to such proof of identity of such interest as the Secretary may prescribe by regulations)."

1997—Subsec. (c). Pub. L. 105-34 added subsec. (c).

1976—Subsecs. (a), (b)(1). Pub. L. 94-455 struck out "or his delegate" after "Secretary".

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109-135, title IV, §409(d), Dec. 21, 2005, 119 Stat. 2636, provided that: "The amendments made by this section [amending this section and sections 6038B, 6411, and 6601 of this title] shall take effect as if included in the provisions of the Taxpayer Relief Act of 1997 [Pub. L. 105-34] to which they relate."

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title XI, §1112(b)(2), Aug. 5, 1997, 111 Stat. 969, provided that: "The amendment made by paragraph (1) [amending this section] shall apply for purposes of determining inclusions for taxable years of United States shareholders beginning after December 31, 1997."

DUAL RESIDENT COMPANIES

Basis adjustments of this section not applicable in certain circumstances involving dual resident companies, see section 6126 of Pub. L. 100-647, set out as a note under section 1502 of this title.

§ 962. Election by individuals to be subject to tax at corporate rates

(a) General rule

Under regulations prescribed by the Secretary, in the case of a United States shareholder who is an individual and who elects to have the provisions of this section apply for the taxable year—

(1) the tax imposed under this chapter on amounts which are included in his gross income under section 951(a) shall (in lieu of the tax determined under sections 1 and 55) be an amount equal to the tax which would be imposed under sections 11 and 55 if such amounts were received by a domestic corporation, and

(2) for purposes of applying the provisions of section 960 (relating to foreign tax credit) such amounts shall be treated as if they were received by a domestic corporation.

(b) Election

An election to have the provisions of this section apply for any taxable year shall be made by a United States shareholder at such time and in such manner as the Secretary shall prescribe by regulations. An election made for any taxable year may not be revoked except with the consent of the Secretary.

(c) Pro ration of each section 11 bracket amount

For purposes of applying subsection (a)(1), the amount in each taxable income bracket in the tax table in section 11(b) shall not exceed an amount which bears the same ratio to such

bracket amount as the amount included in the gross income of the United States shareholder under section 951(a) for the taxable year bears to such shareholder's pro rata share of the earnings and profits for the taxable year of all controlled foreign corporations with respect to which such shareholder includes any amount in gross income under section 951(a).

(d) Special rule for actual distributions

The earnings and profits of a foreign corporation attributable to amounts which were included in the gross income of a United States shareholder under section 951(a) and with respect to which an election under this section applied shall, when such earnings and profits are distributed, notwithstanding the provisions of section 959(a)(1), be included in gross income to the extent that such earnings and profits so distributed exceed the amount of tax paid under this chapter on the amounts to which such election applied.

(Added Pub. L. 87-834, §12(a), Oct. 16, 1962, 76 Stat. 1023; amended Pub. L. 94-12, title III, §303(c)(3), Mar. 29, 1975, 89 Stat. 45; Pub. L. 94-164, §4(d)(1), Dec. 23, 1975, 89 Stat. 975; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95-600, title III, §301(b)(16), Nov. 6, 1978, 92 Stat. 2822; Pub. L. 100-647, title I, §1007(g)(11), Nov. 10, 1988, 102 Stat. 3435.)

AMENDMENTS

1988—Subsec. (a)(1). Pub. L. 100-647 substituted "sections 1 and 55" and "sections 11 and 55" for "section 1" and "section 11", respectively.

1978—Subsec. (c). Pub. L. 95-600 substituted provisions relating to the pro ration of each section 11 bracket amount for provisions relating to the surtax exemption.

1976—Subsecs. (a), (b). Pub. L. 94-455 struck out "or his delegate" after "Secretary" wherever appearing.

1975—Subsec. (c). Pub. L. 94-164 substituted "same ratio to the surtax exemption" for "same ratio to \$25,000" in subsec. (c) as such subsec. (c) is in effect for taxable years ending after Dec. 31, 1975.

Pub. L. 94-12 substituted "\$50,000" for "\$25,000".

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 1978 AMENDMENT

Amendment by 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.

EFFECTIVE AND TERMINATION DATES OF 1975 AMENDMENTS

Amendment by Pub. L. 94-164 applicable to taxable years beginning after Dec. 31, 1975, see section 4(e) of Pub. L. 94-164, set out as a note under section 11 of this title.

Amendment by Pub. L. 94-12 applicable to taxable years ending after Dec. 31, 1974, but to cease to apply for taxable years ending after Dec. 31, 1975, see section 305(b)(1) of Pub. L. 94-12, set out as a note under section 11 of this title.

[§ 963. Repealed. Pub. L. 94-12, title VI, § 602(a)(1), Mar. 29, 1975, 89 Stat. 58]

Section, added Pub. L. 87-834, §12(a), Oct. 16, 1962, 76 Stat. 1023; amended Pub. L. 88-272, title I, §123(b), Feb.