

1981—Subsec. (a)(1). Pub. L. 97-34 substituted “section 911(d)(2)” for “section 911(b)”.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to bonds issued after Aug. 15, 1986, except as otherwise provided, see sections 1311 to 1318 of Pub. L. 99-514, set out as an Effective Date; Transitional Rules note under section 141 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title I, §139(c), July 18, 1984, 98 Stat. 677, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1984.”

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable with respect to taxable years beginning after Dec. 31, 1981, see section 115 of Pub. L. 97-34, set out as a note under section 911 of this title.

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 1976, see section 1012(d) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 6013 of this title.

SUBPART B—FOREIGN CORPORATIONS

Sec.	
881.	Tax on income of foreign corporations not connected with United States business.
882.	Tax on income of foreign corporations connected with United States business.
883.	Exclusions from gross income.
884.	Branch profits tax.
885.	Cross references.

AMENDMENTS

1986—Pub. L. 99-514, title XII, §1241(d), Oct. 22, 1986, 100 Stat. 2580, added item 884 and redesignated former item 884 as 885.

1966—Pub. L. 89-809, title I, §104(b)(3), Nov. 13, 1966, 80 Stat. 1557, substituted “Tax on income of foreign corporations not connected with United States business” for “Tax on foreign corporations not engaged in business in United States” in item 881, and “Tax on income of foreign corporations connected with United States business” for “Tax on resident foreign corporations” in item 882.

§ 881. Tax on income of foreign corporations not connected with United States business

(a) Imposition of tax

Except as provided in subsection (c), there is hereby imposed for each taxable year a tax of 30 percent of the amount received from sources within the United States by a foreign corporation as—

(1) interest (other than original issue discount as defined in section 1273), dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, and other fixed or determinable annual or periodical gains, profits, and income,

(2) gains described in section 631(b) or (c),

(3) in the case of—

(A) a sale or exchange of an original issue discount obligation, the amount of the original issue discount accruing while such obligation was held by the foreign corporation (to the extent such discount was not theretofore taken into account under subparagraph (B)), and

(B) a payment on an original issue discount obligation, an amount equal to the original issue discount accruing while such obligation was held by the foreign corporation (except that such original issue discount shall be taken into account under this subparagraph only to the extent such discount was not theretofore taken into account under this subparagraph and only to the extent that the tax thereon does not exceed the payment less the tax imposed by paragraph (1) thereon), and

(4) gains from the sale or exchange after October 4, 1966, of patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other like property, or of any interest in any such property, to the extent such gains are from payments which are contingent on the productivity, use, or disposition of the property or interest sold or exchanged,

but only to the extent the amount so received is not effectively connected with the conduct of a trade or business within the United States.

(b) Exception for certain possessions

(1) Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands

For purposes of this section and section 884, a corporation created or organized in Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands or under the law of any such possession shall not be treated as a foreign corporation for any taxable year if—

(A) at all times during such taxable year less than 25 percent in value of the stock of such corporation is beneficially owned (directly or indirectly) by foreign persons,

(B) at least 65 percent of the gross income of such corporation is shown to the satisfaction of the Secretary to be effectively connected with the conduct of a trade or business in such a possession or the United States for the 3-year period ending with the close of the taxable year of such corporation (or for such part of such period as the corporation or any predecessor has been in existence), and

(C) no substantial part of the income of such corporation is used (directly or indirectly) to satisfy obligations to persons who are not bona fide residents of such a possession or the United States.

(2) Commonwealth of Puerto Rico

(A) In general

If dividends are received during a taxable year by a corporation—

(i) created or organized in, or under the law of, the Commonwealth of Puerto Rico, and

(ii) with respect to which the requirements of subparagraphs (A), (B), and (C) of paragraph (1) are met for the taxable year,

subsection (a) shall be applied for such taxable year by substituting “10 percent” for “30 percent”.

(B) Applicability

If, on or after the date of the enactment of this paragraph, an increase in the rate of the

Commonwealth of Puerto Rico's withholding tax which is generally applicable to dividends paid to United States corporations not engaged in a trade or business in the Commonwealth to a rate greater than 10 percent takes effect, this paragraph shall not apply to dividends received on or after the effective date of the increase.

(3) Definitions

(A) Foreign person

For purposes of paragraph (1), the term "foreign person" means any person other than—

- (i) a United States person, or
- (ii) a person who would be a United States person if references to the United States in section 7701 included references to a possession of the United States.

(B) Indirect ownership rules

For purposes of paragraph (1), the rules of section 318(a)(2) shall apply except that "5 percent" shall be substituted for "50 percent" in subparagraph (C) thereof.

(c) Repeal of tax on interest of foreign corporations received from certain portfolio debt investments

(1) In general

In the case of any portfolio interest received by a foreign corporation from sources within the United States, no tax shall be imposed under paragraph (1) or (3) of subsection (a).

(2) Portfolio interest

For purposes of this subsection, the term "portfolio interest" means any interest (including original issue discount) which—

- (A) would be subject to tax under subsection (a) but for this subsection, and
- (B) is paid on an obligation—
 - (i) which is in registered form, and
 - (ii) with respect to which—
 - (I) the person who would otherwise be required to deduct and withhold tax from such interest under section 1442(a) receives a statement which meets the requirements of section 871(h)(5) that the beneficial owner of the obligation is not a United States person, or
 - (II) the Secretary has determined that such a statement is not required in order to carry out the purposes of this subsection.

(3) Portfolio interest shall not include interest received by certain persons

For purposes of this subsection, the term "portfolio interest" shall not include any portfolio interest which—

- (A) except in the case of interest paid on an obligation of the United States, is received by a bank on an extension of credit made pursuant to a loan agreement entered into in the ordinary course of its trade or business,
- (B) is received by a 10-percent shareholder (within the meaning of section 871(h)(3)(B)), or
- (C) is received by a controlled foreign corporation from a related person (within the meaning of section 864(d)(4)).

(4) Portfolio interest not to include certain contingent interest

For purposes of this subsection, the term "portfolio interest" shall not include any interest which is treated as not being portfolio interest under the rules of section 871(h)(4).

(5) Special rules for controlled foreign corporations

(A) In general

In the case of any portfolio interest received by a controlled foreign corporation, the following provisions shall not apply:

- (i) Subparagraph (A) of section 954(b)(3) (relating to exception where foreign base company income is less than 5 percent or \$1,000,000).
- (ii) Paragraph (4) of section 954(b) (relating to exception for certain income subject to high foreign taxes).
- (iii) Clause (i) of section 954(c)(3)(A) (relating to certain income received from related persons).

(B) Controlled foreign corporation

For purposes of this subsection, the term "controlled foreign corporation" has the meaning given to such term by section 957(a).

(6) Secretary may cease application of this subsection

Under rules similar to the rules of section 871(h)(6), the Secretary may provide that this subsection shall not apply to payments of interest described in section 871(h)(6).

(7) Registered form

For purposes of this subsection, the term "registered form" has the meaning given such term by section 163(f).

(d) Tax not to apply to certain interest and dividends

No tax shall be imposed under paragraph (1) or (3) of subsection (a) on any amount described in section 871(i)(2).

(e) Tax not to apply to certain dividends of regulated investment companies

(1) Interest-related dividends

(A) In general

Except as provided in subparagraph (B), no tax shall be imposed under paragraph (1) of subsection (a) on any interest-related dividend (as defined in section 871(k)(1)) received from a regulated investment company.

(B) Exception

- Subparagraph (A) shall not apply—
 - (i) to any dividend referred to in section 871(k)(1)(B), and
 - (ii) to any interest-related dividend received by a controlled foreign corporation (within the meaning of section 957(a)) to the extent such dividend is attributable to interest received by the regulated investment company from a person who is a related person (within the meaning of section 864(d)(4)) with respect to such controlled foreign corporation.

(C) Treatment of dividends received by controlled foreign corporations

The rules of subsection (c)(5)(A) shall apply to any interest-related dividend re-

ceived by a controlled foreign corporation (within the meaning of section 957(a)) to the extent such dividend is attributable to interest received by the regulated investment company which is described in clause (ii) of section 871(k)(1)(E) (and not described in clause (i) or (iii) of such section).

(2) Short-term capital gain dividends

No tax shall be imposed under paragraph (1) of subsection (a) on any short-term capital gain dividend (as defined in section 871(k)(2)) received from a regulated investment company.

(f) Cross reference

For doubling of tax on corporations of certain foreign countries, see section 891.

For special rules for original issue discount, see section 871(g).

(Aug. 16, 1954, ch. 736, 68A Stat. 282; Pub. L. 89-809, title I, §104(a), Nov. 13, 1966, 80 Stat. 1555; Pub. L. 92-178, title III, §313(a), (c), Dec. 10, 1971, 85 Stat. 526, 527; Pub. L. 92-606, §1(e)(1), Oct. 31, 1972, 86 Stat. 1497; Pub. L. 94-455, title XIX, §1901(b)(3)(I), Oct. 4, 1976, 90 Stat. 1793; Pub. L. 98-369, div. A, title I, §§42(a)(10), 127(b), 128(b), 130(a), July 18, 1984, 98 Stat. 557, 650, 654, 660; Pub. L. 99-514, title XII, §§1211(b)(6), 1214(c)(2), 1223(b)(2), 1273(b)(1), (2)(A), title XVIII, §§1810(d)(1)(B), (3)(C), (e)(2)(B), 1899A(22), (23), (68), Oct. 22, 1986, 100 Stat. 2536, 2542, 2558, 2595, 2596, 2825, 2826, 2959, 2962; Pub. L. 100-647, title I, §1012(i)(17), Nov. 10, 1988, 102 Stat. 3510; Pub. L. 103-66, title XIII, §13237(a)(2), (c)(2), (3), Aug. 10, 1993, 107 Stat. 507, 508; Pub. L. 108-357, title IV, §§411(a)(2), 420(a), (c), Oct. 22, 2004, 118 Stat. 1503, 1513, 1514; Pub. L. 109-135, title IV, §412(jj), Dec. 21, 2005, 119 Stat. 2639; Pub. L. 111-147, title V, §502(b)(2)(B), Mar. 18, 2010, 124 Stat. 107.)

REFERENCES IN TEXT

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

AMENDMENTS

2010—Subsec. (c)(2). Pub. L. 111-147 amended par. (2) generally. Prior to amendment, par. (2) defined portfolio interest to also include interest on certain obligations not in registered form.

2005—Subsec. (e)(1)(C). Pub. L. 109-135 inserted “interest-related dividend received by a controlled foreign corporation” after “shall apply to any”.

2004—Subsec. (b). Pub. L. 108-357, §420(c)(1), substituted “possessions” for “Guam and Virgin Islands corporations” in heading.

Subsec. (b)(1). Pub. L. 108-357, §420(c)(2), substituted “Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands” for “In general” in heading.

Subsec. (b)(2), (3). Pub. L. 108-357, §420(a), added par. (2) and redesignated former par. (2) as (3).

Subsec. (e), (f). Pub. L. 108-357, §411(a)(2), added subsec. (e) and redesignated former subsec. (e) as (f).

1993—Subsec. (c)(2)(B)(ii). Pub. L. 103-66, §13237(c)(2), substituted “section 871(h)(5)” for “section 871(h)(4)”.

Subsec. (c)(4), (5). Pub. L. 103-66, §13237(a)(2), added par. (4) and redesignated former par. (4) as (5). Former par. (5) redesignated (6).

Subsec. (c)(6). Pub. L. 103-66, §13237(a)(2), (c)(3), redesignated par. (5) as (6) and substituted “section 871(h)(6)” for “section 871(h)(5)” in two places. Former par. (6) redesignated (7).

Subsec. (c)(7). Pub. L. 103-66, §13237(a)(2), redesignated par. (6) as (7).

1988—Subsec. (c)(4)(A)(ii) to (v). Pub. L. 100-647 added cls. (ii) and (iii) and struck out former cls. (ii) to (v), which read as follows:

“(ii) Paragraph (4) of section 954(b) (relating to corporations not formed or availed of to avoid tax).

“(iii) Subparagraph (B) of section 954(c)(3) (relating to certain income derived in active conduct of trade or business).

“(iv) Subparagraph (C) of section 954(c)(3) (relating to certain income derived by an insurance company).

“(v) Subparagraphs (A) and (B) of section 954(c)(4) (relating to exception for certain income received from related persons).”

1986—Subsec. (a)(3)(A). Pub. L. 99-514, §1810(e)(2)(B), amended subpar. (A) generally, striking out “any gain not in excess of” before “the original issue discount”.

Subsec. (a)(3)(B). Pub. L. 99-514, §1810(e)(2)(B), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “the payment of interest on an original issue discount obligation, an amount equal to the original issue discount accrued on such obligation since the last payment of interest thereon (except that such original issue discount shall be taken into account under this subparagraph only to the extent that the tax thereon does not exceed the interest payment less the tax imposed by paragraph (1) thereon), and”.

Subsec. (a)(4). Pub. L. 99-514, §1211(b)(6), struck out “or from payments which are treated as being so contingent under section 871(e),” after “sold or exchanged.”

Subsec. (b)(1). Pub. L. 99-514, §1273(b)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “For purposes of this section, a corporation created or organized in Guam or the Virgin Islands or under the law of Guam or the Virgin Islands shall not be treated as a foreign corporation for any taxable year if—

“(A) at all times during such taxable year less than 25 percent in value of the stock of such corporation is owned (directly or indirectly) by foreign persons, and

“(B) at least 20 percent of the gross income of such corporation is shown to the satisfaction of the Secretary to have been derived from sources within Guam or the Virgin Islands (as the case may be) for the 3-year period ending with the close of the preceding taxable year of such corporation (or for such part of such period as the corporation has been in existence).”

Subsec. (b)(2). Pub. L. 99-514, §1273(b)(1), (2)(A), redesignated par. (3) as (2) and struck out former par. (2) which provided that par. (1) of this subsection not apply with respect to income tax liability incurred to Guam.

Subsec. (b)(2)(A). Pub. L. 99-514, §1899A(22), substituted “paragraph” for “Paragraph”.

Subsec. (b)(3), (4). Pub. L. 99-514, §1273(b)(2)(A), redesignated par. (3) as (2) and struck out par. (4) which provided a cross reference to sections 934 and 934A.

Subsec. (c). Pub. L. 99-514, §1899A(68), made clarifying amendment to directory language of Pub. L. 98-369, §127(b)(1). See 1984 Amendment note below.

Subsec. (c)(2). Pub. L. 99-514, §1810(d)(1)(B), (3)(C), inserted “which would be subject to tax under subsection (a) but for this subsection and” in introductory provisions and substituted “receives a statement” for “has received a statement” in subpar. (B)(ii).

Subsec. (c)(3)(C). Pub. L. 99-514, §1899A(23), inserted a closing parenthesis following “section 864(d)(4)”.

Subsec. (c)(4)(A)(i). Pub. L. 99-514, §1223(b)(2), substituted “less than 5 percent or \$1,000,000” for “less than 10 percent”.

Subsecs. (d), (e). Pub. L. 99-514, §1214(c)(2), added subsec. (d) and redesignated former subsec. (d) as (e).

1984—Subsec. (a). Pub. L. 98-369, §127(b)(2), substituted “Except as provided in subsection (c), there” for “There” in introductory provision.

Subsec. (a)(1). Pub. L. 98-369, §42(a)(10), substituted “section 1273” for “section 1232(b)”.

Subsec. (a)(3). Pub. L. 98-369, §128(b)(1), amended par. (3) generally, substituting in subpar. (A), “a sale or ex-

change of an original issue discount obligation, the amount of any gain not in excess of the original issue discount accruing while such obligation was held by the foreign corporation (to the extent such discount was not theretofore taken into account under subparagraph (B)), and” for “bonds or other evidences of indebtedness issued after September 28, 1965, and before April 1, 1972, amounts which under section 1232(a)(2)(B) are considered as ordinary income, and, in the case of corporate obligations issued after May 27, 1969, and before April 1, 1972, amounts which would be so considered but for the fact the obligations were issued after May 27, 1969,” substituting in subpar. (B), “the payment of interest on an original issue discount obligation, an amount equal to the original issue discount accrued on such obligation since the last payment of interest thereon (except that such original issue discount shall be taken into account under this subparagraph only to the extent that the tax thereon does not exceed the interest payment less the tax imposed by paragraph (1) thereon), and” for “bonds or other evidences of indebtedness issued after March 31, 1972, and payable more than 6 months from the date of original issue (without regard to the period held by the taxpayer), amounts which under section 1232(a)(2)(B) would be considered as ordinary income but for the fact such obligations were issued after May 27, 1969, and”, and striking out subpar. (C) which required that in the case of the payment of interest on an obligation described in subpar. (B), an amount equal to the original issue discount, but not in excess of such interest less the tax imposed by par. (1) thereon, accrued on such obligation since the last payment of interest thereon, be included for purpose of the 30 percent tax.

Subsec. (b). Pub. L. 98-369, §130(a), amended subsec. (b) generally, substituting provision establishing an exception for certain Guam and Virgin Islands corporations for provision establishing an exception for Guam corporations.

Subsec. (c). Pub. L. 98-369, §127(b)(1), as amended by Pub. L. 99-514, §1899A(68), added subsec. (c). Former subsec. (c) redesignated (d).

Pub. L. 98-369, §128(b)(2), amended subsec. (c) generally, substituting in heading “Cross reference” for “Doubling of tax” and inserting provision directing that for special rules for original issue discount, see section 871(g).

Subsec. (d). Pub. L. 98-369, §127(b)(1), as amended by Pub. L. 99-514, §1899A(68), redesignated subsec. (c) as (d).

1976—Subsec. (a)(3)(A), (B). Pub. L. 94-455 substituted “ordinary income” for “gain from the sale or exchange of property which is not a capital asset”.

1972—Subsecs. (b), (c). Pub. L. 92-606 added subsec. (b) and redesignated former subsec. (b) as (c).

1971—Subsec. (a)(1). Pub. L. 92-178, §313(a), inserted “(other than original issue discount as defined in section 1232(b))” after “interest”.

Subsec. (a)(3). Pub. L. 92-178, §313(c), designated existing provisions as subpar. (A), inserted “and before April 1, 1972,” after “September 28, 1965,” substituted “section 1232(a)(2)(B)” for “section 1232”, and inserted “, in the case of corporate obligations issued after May 27, 1969, and before April 1, 1972, amounts which would be so considered but for the fact that the obligations were issued after May 27, 1969,” and added subpars. (B) and (C).

1966—Subsec. (a). Pub. L. 89-809 substantially revised the income tax treatment of foreign corporations, substituted the concept of amounts received from sources within the United States by foreign corporations but not effectively connected with the conduct of a trade or business within the United States for the concept of amounts received from sources within the United States by foreign corporations not engaged in trade or business within the United States as the amount upon which the existing 30 percent levy should be imposed, and added contingent income received from the sale of patents and other intangibles and amounts of original issue discount which are treated as ordinary income re-

ceived on retirement or sale or exchange of bonds or other evidences of indebtedness issued after Sept. 28, 1965, to the specified types of fixed or determinable income.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-147 applicable to obligations issued after the date which is 2 years after Mar. 18, 2010, see section 502(f) of Pub. L. 111-147, set out as a note under section 149 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 411(a)(2) of Pub. L. 108-357 applicable to dividends with respect to taxable years of regulated investment companies beginning after Dec. 31, 2004, see section 411(d)(1) of Pub. L. 108-357, set out as a note under section 871 of this title.

Pub. L. 108-357, title IV, §420(d), Oct. 22, 2004, 118 Stat. 1514, provided that: “The amendments made by this section [amending this section and section 1442 of this title] shall apply to dividends paid after the date of the enactment of this Act [Oct. 22, 2004].”

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 applicable to interest received after Dec. 31, 1993, see section 13237(d) of Pub. L. 103-66, set out as a note under section 871 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 1986 AMENDMENT

Amendment by section 1211(b)(6) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, except as otherwise provided, see section 1211(c) of Pub. L. 99-514, set out as an Effective Date note under section 865 of this title.

Amendment by section 1214(c)(2) of Pub. L. 99-514 applicable to payments made in taxable year of payor beginning after Dec. 31, 1986, except as otherwise provided, see section 1214(d) of Pub. L. 99-514, as amended, set out as a note under section 861 of this title.

Amendment by section 1223(b)(2) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 1223(c) of Pub. L. 99-514, set out as a note under section 864 of this title.

Amendment by section 1273(b)(1), (2)(A) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, with certain exceptions and qualifications, see section 1277 of Pub. L. 99-514, set out as a note under section 931 of this title.

Amendment by section 1810(d)(1)(B), (3)(C), (e)(2)(B) 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 section 42(a)(10) of Pub. L. 98-369 applicable to taxable years ending after July 18, 1984, see section 44 of Pub. L. 98-369, set out as an Effective Date note under section 1271 of this title.

Amendment by section 127(b) of Pub. L. 98-369 applicable to interest received after July 18, 1984, with respect to obligations issued after such date, in taxable years after such date, see section 127(g)(1) of Pub. L. 98-369, set out as a note under section 871 of this title.

Amendment by section 128(b) of Pub. L. 98-369 applicable to payments made on or after the 60th day after July 18, 1984, with respect to obligations issued after Mar. 31, 1972, see section 128(d)(1) of Pub. L. 98-369, set out as a note under section 871 of this title.

Pub. L. 98-369, div. A, title I, §130(d), July 18, 1984, 98 Stat. 661, provided that: "The amendments made by this section [amending this section and sections 1442 and 7651 of this title] shall apply to payments made after March 1, 1984, in taxable years ending after such date."

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective for taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Pub. L. 92-606, §2, Oct. 31, 1972, 86 Stat. 1497, provided in part that: "The amendments made by section 1(e)(1) [amending this section] shall apply with respect to taxable years beginning after December 31, 1971."

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-178 applicable with respect to taxable years beginning after Dec. 31, 1966, see section 313(f) of Pub. L. 92-178, set out as a note under section 871 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-809 applicable with respect to taxable years beginning after Dec. 31, 1966, see section 104(n) of Pub. L. 89-809, set out as a note under section 11 of this title.

APPLICABILITY OF CERTAIN AMENDMENTS BY PUB. L. 99-514 IN RELATION TO TREATY OBLIGATIONS OF UNITED STATES

For nonapplication of amendments by sections 1211(b)(6) and 1214(c)(2) of Pub. L. 99-514 to the extent application of such amendments would be contrary to any treaty obligation of the United States in effect on Oct. 22, 1986, with provision that for such purposes any amendment by title I of Pub. L. 100-647 be treated as if it had been included in the provision of Pub. L. 99-514 to which such amendment relates, see section 1012(aa)(3), (4) of Pub. L. 100-647, set out as a note under section 861 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.

§ 882. Tax on income of foreign corporations connected with United States business

(a) Imposition of tax

(1) In general

A foreign corporation engaged in trade or business within the United States during the taxable year shall be taxable as provided in section 11 or 59A,¹ on its taxable income which is effectively connected with the conduct of a trade or business within the United States.

(2) Determination of taxable income

In determining taxable income for purposes of paragraph (1), gross income includes only gross income which is effectively connected with the conduct of a trade or business within the United States.

(3) [Cross reference ²]

For special tax treatment of gain or loss from the disposition by a foreign corporation of a United States real property interest, see section 897.

(b) Gross income

In the case of a foreign corporation, except where the context clearly indicates otherwise, gross income includes only—

(1) gross income which is derived from sources within the United States and which is not effectively connected with the conduct of a trade or business within the United States, and

(2) gross income which is effectively connected with the conduct of a trade or business within the United States.

(c) Allowance of deductions and credits

(1) Allocation of deductions

(A) General rule

In the case of a foreign corporation, the deductions shall be allowed only for purposes of subsection (a) and (except as provided by subparagraph (B)) only if and to the extent that they are connected with income which is effectively connected with the conduct of a trade or business within the United States; and the proper apportionment and allocation of the deductions for this purpose shall be determined as provided in regulations prescribed by the Secretary.

(B) Charitable contributions

The deduction for charitable contributions and gifts provided by section 170 shall be allowed whether or not connected with income which is effectively connected with the conduct of a trade or business within the United States.

(2) Deductions and credits allowed only if return filed

A foreign corporation shall receive the benefit of the deductions and credits allowed to it in this subtitle only by filing or causing to be filed with the Secretary a true and accurate return, in the manner prescribed in subtitle F, including therein all the information which the Secretary may deem necessary for the calculation of such deductions and credits. The preceding sentence shall not apply for purposes of the tax imposed by section 541 (relating to personal holding company tax), and shall not be construed to deny the credit provided by section 33 for tax withheld at source or the credit provided by section 34 for certain uses of gasoline.

(3) Foreign tax credit

Except as provided by section 906, foreign corporations shall not be allowed the credit against the tax for taxes of foreign countries and possessions of the United States allowed by section 901.

(4) Cross reference

For rule that certain foreign taxes are not to be taken into account in determining deduction or credit, see section 906(b)(1).

¹ So in original. The comma probably should not appear.

² Par. (3) heading editorially supplied.