

and corporation of such foreign country; but the tax at such doubled rate shall be considered as imposed by such sections as the case may be. In no case shall this section operate to increase the taxes imposed by such sections (computed without regard to this section) to an amount in excess of 80 percent of the taxable income of the taxpayer (computed without regard to the deductions allowable under section 151 and under part VIII of subchapter B). Whenever the President finds that the laws of any foreign country with respect to which the President has made a proclamation under the preceding provisions of this section have been modified so that discriminatory and extraterritorial taxes applicable to citizens and corporations of the United States have been removed, he shall so proclaim, and the provisions of this section providing for doubled rates of tax shall not apply to any citizen or corporation of such foreign country with respect to any taxable year beginning after such proclamation is made.

(Aug. 16, 1954, ch. 736, 68A Stat. 283; Mar. 13, 1956, ch. 83, §5(6), 70 Stat. 49; Pub. L. 86-69, §3(f)(1), June 25, 1959, 73 Stat. 140; Pub. L. 98-369, div. A, title II, §211(b)(12), July 18, 1984, 98 Stat. 755; Pub. L. 99-514, title X, §1024(c)(13), Oct. 22, 1986, 100 Stat. 2408.)

AMENDMENTS

1986—Pub. L. 99-514 struck out reference to section 821.

1984—Pub. L. 98-369 substituted “801” for “802”.

1959—Pub. L. 86-69 struck out reference to section 811.

1956—Act Mar. 13, 1956, inserted reference to section 811.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 1024(e) of Pub. L. 99-514, set out as a note under section 831 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, see section 215 of Pub. L. 98-369, set out as an Effective Date note under section 801 of this title.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86-69 applicable only with respect to taxable years beginning after Dec. 31, 1957, see section 4 of Pub. L. 86-69, set out an Effective Date note under section 381 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act Mar. 13, 1956, applicable only to taxable years beginning after Dec. 31, 1954, see section 6 of act Mar. 13, 1956, set out as a note under section 316 of this title.

§ 892. Income of foreign governments and of international organizations

(a) Foreign governments

(1) In general

The income of foreign governments received from—

- (A) investments in the United States in—
 - (i) stocks, bonds, or other domestic securities owned by such foreign governments, or
 - (ii) financial instruments held in the execution of governmental financial or monetary policy, or

(B) interest on deposits in banks in the United States of moneys belonging to such foreign governments,

shall not be included in gross income and shall be exempt from taxation under this subtitle.

(2) Income received directly or indirectly from commercial activities

(A) In general

Paragraph (1) shall not apply to any income—

- (i) derived from the conduct of any commercial activity (whether within or outside the United States),
- (ii) received by a controlled commercial entity or received (directly or indirectly) from a controlled commercial entity, or
- (iii) derived from the disposition of any interest in a controlled commercial entity.

(B) Controlled commercial entity

For purposes of subparagraph (A), the term “controlled commercial entity” means any entity engaged in commercial activities (whether within or outside the United States) if the government—

- (i) holds (directly or indirectly) any interest in such entity which (by value or voting interest) is 50 percent or more of the total of such interests in such entity, or
- (ii) holds (directly or indirectly) any other interest in such entity which provides the foreign government with effective control of such entity.

For purposes of the preceding sentence, a central bank of issue shall be treated as a controlled commercial entity only if engaged in commercial activities within the United States.

(3) Treatment as resident

For purposes of this title, a foreign government shall be treated as a corporate resident of its country. A foreign government shall be so treated for purposes of any income tax treaty obligation of the United States if such government grants equivalent treatment to the Government of the United States.

(b) International organizations

The income of international organizations received from investments in the United States in stocks, bonds, or other domestic securities owned by such international organizations, or from interest on deposits in banks in the United States of moneys belonging to such international organizations, or from any other source within the United States, shall not be included in gross income and shall be exempt from taxation under this subtitle.

(c) Regulations

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

(Aug. 16, 1954, ch. 736, 68A Stat. 284; Pub. L. 99-514, title XII, §1247(a), Oct. 22, 1986, 100 Stat. 2583; Pub. L. 100-647, title I, §1012(t)(1)-(3), Nov. 10, 1988, 102 Stat. 3527; Pub. L. 101-508, title XI, §11704(a)(35), Nov. 5, 1990, 104 Stat. 1388-519.)

AMENDMENTS

1990—Subsec. (a)(2)(A). Pub. L. 101-508 made clarifying amendment to Pub. L. 100-647, §1012(t)(1). See 1988 Amendment note below.

1988—Subsec. (a)(2)(A). Pub. L. 100-647, §1012(t)(1), (2), as amended by Pub. L. 101-508, amended cl. (ii) generally and added cl. (iii). Prior to amendment, cl. (ii) read as follows: “received from or by a controlled commercial entity.”

Subsec. (a)(3). Pub. L. 100-647, §1012(t)(3), added par. (3).

1986—Pub. L. 99-514 amended section generally. Prior to amendment, section read as follows: “The income of foreign governments or international organizations received from investments in the United States in stocks, bonds, or other domestic securities, owned by such foreign governments or by international organizations, or from interest on deposits in banks in the United States of moneys belonging to such foreign governments or international organizations, or from any other source within the United States, shall not be included in gross income and shall be exempt from taxation under this subtitle.”

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

Pub. L. 99-514, title XII, §1247(b), Oct. 22, 1986, 100 Stat. 2584, provided that: “The amendment made by subsection (a) [amending this section] shall apply to amounts received on or after July 1, 1986, except that no amount shall be required to be deducted and withheld by reason of the amendment made by subsection (a) from any payment made before the date of the enactment of this Act [Oct. 22, 1986].”

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

For nonapplication of amendment by section 1247(a) of Pub. L. 99-514 to the extent application of such amendment 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.

§ 893. Compensation of employees of foreign governments or international organizations**(a) Rule for exclusion**

Wages, fees, or salary of any employee of a foreign government or of an international organization (including a consular or other officer, or a nondiplomatic representative), received as compensation for official services to such government or international organization shall not be included in gross income and shall be exempt from taxation under this subtitle if—

(1) such employee is not a citizen of the United States, or is a citizen of the Republic of the Philippines (whether or not a citizen of the United States); and

(2) in the case of an employee of a foreign government, the services are of a character similar to those performed by employees of the Government of the United States in foreign countries; and

(3) in the case of an employee of a foreign government, the foreign government grants an

equivalent exemption to employees of the Government of the United States performing similar services in such foreign country.

(b) Certificate by Secretary of State

The Secretary of State shall certify to the Secretary of the Treasury the names of the foreign countries which grant an equivalent exemption to the employees of the Government of the United States performing services in such foreign countries, and the character of the services performed by employees of the Government of the United States in foreign countries.

(c) Limitation on exclusion

Subsection (a) shall not apply to—

(1) any employee of a controlled commercial entity (as defined in section 892(a)(2)(B)), or

(2) any employee of a foreign government whose services are primarily in connection with a commercial activity (whether within or outside the United States) of the foreign government.

(Aug. 16, 1954, ch. 736, 68A Stat. 284; Pub. L. 100-647, title I, §1012(t)(4), Nov. 10, 1988, 102 Stat. 3527.)

AMENDMENTS

1988—Subsec. (c). Pub. L. 100-647 added subsec. (c).

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.

§ 894. Income affected by treaty**(a) Treaty provisions****(1) In general**

The provisions of this title shall be applied to any taxpayer with due regard to any treaty obligation of the United States which applies to such taxpayer.

(2) Cross reference

For relationship between treaties and this title, see section 7852(d).

(b) Permanent establishment in United States

For purposes of applying any exemption from, or reduction of, any tax provided by any treaty to which the United States is a party with respect to income which is not effectively connected with the conduct of a trade or business within the United States, a nonresident alien individual or a foreign corporation shall be deemed not to have a permanent establishment in the United States at any time during the taxable year. This subsection shall not apply in respect of the tax computed under section 877(b).

(c) Denial of treaty benefits for certain payments through hybrid entities**(1) Application to certain payments**

A foreign person shall not be entitled under any income tax treaty of the United States with a foreign country to any reduced rate of any withholding tax imposed by this title on an item of income derived through an entity which is treated as a partnership (or is otherwise treated as fiscally transparent) for purposes of this title if—