

able year under section 72(m)(5)(B) (relating to 10 percent tax on premature distributions to owner-employees), applicable to distributions made in taxable years beginning after Dec. 31, 1975, see section 2001(i)(4) of Pub. L. 93-406, set out as a note under section 72 of this title.

Amendment by section 2002(g)(3) of Pub. L. 93-406, which inserted reference to the tax imposed for the taxable year by section 408(f) (relating to additional tax on income from certain retirement accounts), effective on Jan. 1, 1975, see section 2002(i)(2) of Pub. L. 93-406, set out as an Effective Date note under section 4973 of this title.

Amendment by section 2005(c)(5) of Pub. L. 93-406, which inserted reference to the tax imposed for the taxable year under section 402(e) (relating to tax on lump sum distributions), applicable only with respect to distributions or payments made after Dec. 31, 1973, in taxable years beginning after Dec. 31, 1973, see section 2005(d) of Pub. L. 93-406, set out as a note under section 402 of this title.

#### EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-178 applicable with respect to taxable years ending after Dec. 31, 1971, except that a corporation may not be a DISC for any taxable year beginning before Jan. 1, 1972, see section 507 of Pub. L. 92-178, set out as an Effective Date note under section 991 of this title.

#### EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by section 301(b)(9) of Pub. L. 91-172 applicable to taxable years ending after Dec. 31, 1969, see section 301(c) of Pub. L. 91-172, set out as a note under section 5 of this title.

Pub. L. 91-172, title V, § 506(c), Dec. 30, 1969, 83 Stat. 635, provided that: "The amendments made by this section [amending this section and section 904 of this title] shall apply with respect to taxable years beginning after December 31, 1969."

#### EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by section 106(a)(4), (5) of Pub. L. 89-809 applicable with respect to taxable years beginning after Dec. 31, 1966, see section 106(a)(6) of Pub. L. 89-809, set out as a note under section 874 of this title.

Pub. L. 89-809, title I, § 106(b)(4), Nov. 13, 1966, 80 Stat. 1570, provided that: "The amendments made by this subsection (other than paragraph (3)) [amending this section] shall apply with respect to taxable years beginning after December 31, 1966. The amendment made by paragraph (3) [amending section 2014 of this title] shall apply with respect to estates of decedents dying after the date of enactment of this Act [Nov. 13, 1966]."

Amendment by Pub. L. 89-384 applicable with respect to amounts received after December 31, 1964, in respect of foreign expropriation losses (as defined in section 1351(b) of this title) sustained after December 31, 1958, see section 2 of Pub. L. 89-384, set out as an Effective Date note under section 1351 of this title.

#### EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-272 applicable to taxable years beginning after Dec. 31, 1963, see section 207(c) of Pub. L. 88-272, set out as a note under section 164 of this title.

#### EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by section 9(d)(3) of Pub. L. 87-834 applicable in respect of any distribution received by a domestic corporation after Dec. 31, 1964, and in respect of any distribution received by a domestic corporation before Jan. 1, 1965, in a taxable year of such corporation beginning after Dec. 31, 1962, but only to the extent that such distribution is made out of the accumulated profits of a foreign corporation for a taxable year (of such foreign corporation) beginning after Dec. 31, 1962, see section 9(e) of Pub. L. 87-834, set out as an Effective Date note under section 78 of this title.

Amendment by section 12(b)(1) of Pub. L. 87-834 applicable with respect to taxable years of foreign corporations beginning after Dec. 31, 1962, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end, see section 12(c) of Pub. L. 87-834, set out as an Effective Date note under section 951 of this title.

#### EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by section 3(a) of Pub. L. 86-780 applicable to taxable years beginning after Dec. 31, 1960, and amendment by section 3(b) of Pub. L. 86-780 applicable to taxable years beginning after Dec. 31, 1953, and ending after Aug. 16, 1954, see section 4 of Pub. L. 86-780, set out as a note under section 904 of this title.

#### EFFECT OF AMENDMENT BY PUB. L. 103-149 ON REVENUE RULING 92-62

Amendment by section 4(b)(8)(A) of Pub. L. 103-149 not to be construed as affecting any of the transitional rules contained in Revenue Ruling 92-62 which apply by reason of the termination of the period for which subsec. (j) of this section was applicable to South Africa, see section 4(b)(8)(B) of Pub. L. 103-149 set out in a Repeal of Chapter; South African Democratic Transition Support note under section 5001 of Title 22, Foreign Relations and Intercourse.

#### 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.

#### [§ 902. Repealed. Pub. L. 115-97, title I, § 14301(a), Dec. 22, 2017, 131 Stat. 2221]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 286; Pub. L. 86-780, § 6(b)(2), Sept. 14, 1960, 74 Stat. 1016; Pub. L. 87-834, § 9(a), Oct. 16, 1962, 76 Stat. 999; Pub. L. 91-684, § 1, 2, Jan. 12, 1971, 84 Stat. 2068, 2069; Pub. L. 94-12, title VI, § 602(c)(6), Mar. 29, 1975, 89 Stat. 59; Pub. L. 94-455, title X, § 1033(a), Oct. 4, 1976, 90 Stat. 1626; Pub. L. 99-514, title XII, § 1202(a), Oct. 22, 1986, 100 Stat. 2528; Pub. L. 100-647, title I, § 1012(b)(1), (2), Nov. 10, 1988, 102 Stat. 3496; Pub. L. 105-34, title XI, § 1113(a), 1163(a), Aug. 5, 1997, 111 Stat. 970, 987; Pub. L. 108-357, title IV, § 405(a), Oct. 22, 2004, 118 Stat. 1498, related to deemed paid credit where domestic corporation owns 10 percent or more of voting stock of foreign corporation.

#### EFFECTIVE DATE OF REPEAL

Repeal applicable to taxable years of foreign corporations beginning after Dec. 31, 2017, and to taxable years of United States shareholders in which or with which such taxable years of foreign corporations end, see section 14301(d) of Pub. L. 115-97, set out as an Effective Date of 2017 Amendment note under section 78 of this title.

#### § 903. Credit for taxes in lieu of income, etc., taxes

For purposes of this part and of sections 164(a) and 275(a), the term "income, war profits, and excess profits taxes" shall include a tax paid in lieu of a tax on income, war profits, or excess profits otherwise generally imposed by any foreign country or by any possession of the United States.

(Aug. 16, 1954, ch. 736, 68A Stat. 287; Pub. L. 88-272, title II, § 207(b)(8), Feb. 26, 1964, 78 Stat. 42; Pub. L. 100-647, title I, § 1012(v)(9), Nov. 10,

1988, 102 Stat. 3530; Pub. L. 106-519, §4(4), Nov. 15, 2000, 114 Stat. 2433; Pub. L. 108-357, title I, §101(b)(7), Oct. 22, 2004, 118 Stat. 1423.)

#### AMENDMENTS

2004—Pub. L. 108-357 substituted “164(a)” for “114, 164(a),”.

2000—Pub. L. 106-519 substituted “114, 164(a),” for “164(a)”.

1988—Pub. L. 100-647 substituted “this part” for “this subpart”.

1964—Pub. L. 88-272 substituted “sections 164(a) and 275(a)” for “section 164(b)”.

#### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to transactions after Dec. 31, 2004, see section 101(c) of Pub. L. 108-357, set out as a note under section 56 of this title.

#### EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-519 applicable to transactions after Sept. 30, 2000, with special rules relating to existing foreign sales corporations, see section 5 of Pub. L. 106-519, set out as a note under section 56 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 1964 AMENDMENT

Amendment by Pub. L. 88-272 applicable to taxable years beginning after Dec. 31, 1963, see section 207(c) of Pub. L. 88-272, set out as a note under section 164 of this title.

### § 904. Limitation on credit

#### (a) Limitation

The total amount of the credit taken under section 901(a) shall not exceed the same proportion of the tax against which such credit is taken which the taxpayer's taxable income from sources without the United States (but not in excess of the taxpayer's entire taxable income) bears to his entire taxable income for the same taxable year.

#### (b) Taxable income for purpose of computing limitation

##### (1) Personal exemptions

For purposes of subsection (a), the taxable income in the case of an individual, estate, or trust shall be computed without any deduction for personal exemptions under section 151 or 642(b).

##### (2) Capital gains

For purposes of this section—

##### (A) In general

Taxable income from sources outside the United States shall include gain from the sale or exchange of capital assets only to the extent of foreign source capital gain net income.

##### (B) Special rules where capital gain rate differential

In the case of any taxable year for which there is a capital gain rate differential—

(i) in lieu of applying subparagraph (A), the taxable income from sources outside

the United States shall include gain from the sale or exchange of capital assets only in an amount equal to foreign source capital gain net income reduced by the rate differential portion of foreign source net capital gain,

(ii) the entire taxable income shall include gain from the sale or exchange of capital assets only in an amount equal to capital gain net income reduced by the rate differential portion of net capital gain, and

(iii) for purposes of determining taxable income from sources outside the United States, any net capital loss (and any amount which is a short-term capital loss under section 1212(a)) from sources outside the United States to the extent taken into account in determining capital gain net income for the taxable year shall be reduced by an amount equal to the rate differential portion of the excess of net capital gain from sources within the United States over net capital gain.

#### (C) Coordination with capital gains rates

The Secretary may by regulations modify the application of this paragraph and paragraph (3) to the extent necessary to properly reflect any capital gain rate differential under section 1(h) and the computation of net capital gain.

### (3) Definitions

For purposes of this subsection—

#### (A) Foreign source capital gain net income

The term “foreign source capital gain net income” means the lesser of—

- (i) capital gain net income from sources without the United States, or
- (ii) capital gain net income.

#### (B) Foreign source net capital gain

The term “foreign source net capital gain” means the lesser of—

- (i) net capital gain from sources without the United States, or
- (ii) net capital gain.

#### (C) Section 1231 gains

The term “gain from the sale or exchange of capital assets” includes any gain so treated under section 1231.

#### (D) Capital gain rate differential

There is a capital gain rate differential for any year if subsection (h) of section 1 applies to such taxable year.

#### (E) Rate differential portion

The rate differential portion of foreign source net capital gain, net capital gain, or the excess of net capital gain from sources within the United States over net capital gain, as the case may be, is the same proportion of such amount as—

- (i) the excess of—
  - (I) the highest rate of tax set forth in subsection (a), (b), (c), (d), or (e) of section 1 (whichever applies), over
  - (II) the alternative rate of tax determined under section 1(h), bears to