

taxable year (if any) which, on each testing day, constituted the taxable year of—

- (i) each United States shareholder described in subsection (b)(2)(A), and
- (ii) each United States shareholder not described in clause (i) whose stock was treated as owned under subsection (b)(2)(B) by any shareholder described in such clause.

(B) Testing day

The testing days shall be—

- (i) the first day of the corporation's taxable year (determined without regard to this section), or
- (ii) the days during such representative period as the Secretary may prescribe.

(Added Pub. L. 101-239, title VII, §7401(a), Dec. 19, 1989, 103 Stat. 2355; amended Pub. L. 108-357, title IV, §413(c)(13), Oct. 22, 2004, 118 Stat. 1507.)

AMENDMENTS

2004—Subsec. (b)(1)(A). Pub. L. 108-357, §413(c)(13)(A), amended subpar. (A) generally. Prior to amendment, subpar (A) read as follows:

“(A) which is—

- “(i) treated as a controlled foreign corporation for any purpose under subpart F of part III of this subchapter, or
- “(ii) a foreign personal holding company (as defined in section 552), and”.

Subsec. (b)(2)(B). Pub. L. 108-357, §413(c)(13)(B), struck out “and sections 551(f) and 554, whichever are applicable,” after “section 958”.

Subsec. (b)(3). Pub. L. 108-357, §413(c)(13)(C), reenacted heading without change, struck out “(A) In general” before “The term”, and struck out heading and text of subpar. (B). Text read as follows: “In the case of any foreign personal holding company (as defined in section 552) which is not a specified foreign corporation by reason of paragraph (1)(A)(i), the term ‘United States shareholder’ means any person who is treated as a United States shareholder under section 551.”

Subsec. (c). Pub. L. 108-357, §413(c)(13)(D), reenacted heading without change and amended text of subsec. (c) generally, substituting provisions stating general rule and relating to 1-month deferral and majority U.S. shareholder year, consisting of pars. (1) to (3), for provisions stating general rule and relating to 1-month deferral and majority U.S. shareholder year, consisting of par. (1), and provisions relating to required year in the case of a foreign personal holding company, consisting of par. (2).

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to taxable years of foreign corporations beginning after Dec. 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end, see section 413(d)(1) of Pub. L. 108-357, set out as an Effective and Termination Dates of 2004 Amendments note under section 1 of this title.

EFFECTIVE DATE

Pub. L. 101-239, title VII, §7401(d), Dec. 19, 1989, 103 Stat. 2357, provided that:

“(1) IN GENERAL.—The amendments made by this section [enacting this section and amending section 563 of this title] shall apply to taxable years of foreign corporations beginning after July 10, 1989.

“(2) SPECIAL RULES.—If any foreign corporation is required by the amendments made by this section to change its taxable year for its first taxable year beginning after July 10, 1989—

“(A) such change shall be treated as initiated by the taxpayer,

“(B) such change shall be treated as having been made with the consent of the Secretary of the Treasury or his delegate, and

“(C) if, by reason of such change, any United States person is required to include in gross income for 1 taxable year amounts attributable to 2 taxable years of such foreign corporation, the amount which would otherwise be required to be included in gross income for such 1 taxable year by reason of the short taxable year of the foreign corporation resulting from such change shall be included in gross income ratably over the 4-taxable-year period beginning with such 1 taxable year.”

PART III—INCOME FROM SOURCES WITHOUT THE UNITED STATES

Subpart

- A. Foreign tax credit.
- B. Earned income of citizens or residents of United States.
- [C. Repealed.]
- D. Possessions of the United States.
- [E. Repealed.]
- F. Controlled foreign corporations.
- [G. Repealed.]¹
- H. Income of certain nonresident United States citizens subject to foreign community property laws.¹
- I. Admissibility of documentation maintained in foreign countries.
- J. Foreign currency transactions.

AMENDMENTS

2004—Pub. L. 108-357, title I, §101(b)(2), Oct. 22, 2004, 118 Stat. 1423, struck out item for subpart E “Qualifying foreign trade income”.

2000—Pub. L. 106-519, §4(8), Nov. 15, 2000, 114 Stat. 2433, struck out item for subpart C “Taxation of foreign sales corporations”.

Pub. L. 106-519, §4(7), Nov. 15, 2000, 114 Stat. 2433, added item for subpart E and directed that former item for subpart E be struck out, which could not be executed because the item for subpart E had previously been struck out by Pub. L. 94-455, §1053(d)(5). See 1976 Amendment note below.

1986—Pub. L. 99-514, title XII, §1261(d), Oct. 22, 1986, 100 Stat. 2591, added item for subpart J.

1984—Pub. L. 98-369, div. A, title VIII, §802(c)(4), July 18, 1984, 98 Stat. 999, added item for subpart C.

1982—Pub. L. 97-248, title III, §337(b), Sept. 3, 1982, 96 Stat. 630, added item for subpart I.

1978—Pub. L. 95-615, §202(g)(4), formerly §202(f)(4), Nov. 8, 1978, 92 Stat. 3100, renumbered Pub. L. 96-222, title I, §108(a)(1)(A), Apr. 1, 1980, 94 Stat. 223, inserted in item for subpart B “or residents” after “citizens.”

1976—Pub. L. 94-455, title X, §1012(b)(3)(B), Oct. 4, 1976, 90 Stat. 1614, struck out item for subpart G “Export Trade Corporation” from analysis without a corresponding repeal of text in such subpart. The amendment probably should have struck out item for subpart H.

Pub. L. 94-455, title X, §§1052(c)(7), 1053(d)(5), Oct. 4, 1976, 90 Stat. 1648, 1649, struck out item for subpart C, relating to Western Hemisphere trade corporations, effective for taxable years beginning after Dec. 31, 1979, and item for subpart E, relating to China Trade Act corporations, effective for taxable years beginning after Dec. 31, 1977.

1966—Pub. L. 89-809, title I, §105(e)(2), Nov. 13, 1966, 80 Stat. 1567, added item for subpart H.

1962—Pub. L. 87-834, §12(b)(3), Oct. 16, 1962, 76 Stat. 1031, added items for subparts F and G.

SUBPART A—FOREIGN TAX CREDIT

Sec.

- 901. Taxes of foreign countries and of possessions of United States.

¹ See 1976 Amendment note below.

Sec.	
[902.	Repealed.]
903.	Credit for taxes in lieu of income, etc., taxes.
904.	Limitation on credit.
905.	Applicable rules.
906.	Nonresident alien individuals and foreign corporations.
907.	Special rules in case of foreign oil and gas income.
908.	Reduction of credit for participation in or cooperation with an international boycott.
909.	Suspension of taxes and credits until related income taken into account.

AMENDMENTS

2017—Pub. L. 115-97, title I, § 14301(c)(38), Dec. 22, 2017, 131 Stat. 2225, struck out item 902 “Deemed paid credit where domestic corporation owns 10 percent or more of voting stock of foreign corporation”.

2010—Pub. L. 111-226, title II, § 211(b), Aug. 10, 2010, 124 Stat. 2395, added item 909.

1986—Pub. L. 99-514, title XII, § 1202(d), Oct. 22, 1986, 100 Stat. 2531, substituted “Deemed paid credit where domestic corporation owns 10 percent or more of voting stock of foreign corporation” for “Credit for corporate stockholder in foreign corporation” in item 902.

1976—Pub. L. 94-455, title X, § 1061(b), Oct. 4, 1976, 90 Stat. 1650, added item 908.

1975—Pub. L. 94-12, title VI, § 601(c), Mar. 29, 1975, 89 Stat. 57, added item 907.

1966—Pub. L. 89-809, title I, § 106(a)(2), Nov. 13, 1966, 80 Stat. 1569, added item 906.

§ 901. Taxes of foreign countries and of possessions of United States

(a) Allowance of credit

If the taxpayer chooses to have the benefits of this subpart, the tax imposed by this chapter shall, subject to the limitation of section 904, be credited with the amounts provided in the applicable paragraph of subsection (b) plus, in the case of a corporation, the taxes deemed to have been paid under section 960. Such choice for any taxable year may be made or changed at any time before the expiration of the period prescribed for making a claim for credit or refund of the tax imposed by this chapter for such taxable year. The credit shall not be allowed against any tax treated as a tax not imposed by this chapter under section 26(b).

(b) Amount allowed

Subject to the limitation of section 904, the following amounts shall be allowed as the credit under subsection (a):

(1) Citizens and domestic corporations

In the case of a citizen of the United States and of a domestic corporation, the amount of any income, war profits, and excess profits taxes paid or accrued during the taxable year to any foreign country or to any possession of the United States; and

(2) Resident of the United States or Puerto Rico

In the case of a resident of the United States and in the case of an individual who is a bona fide resident of Puerto Rico during the entire taxable year, the amount of any such taxes paid or accrued during the taxable year to any possession of the United States; and

(3) Alien resident of the United States or Puerto Rico

In the case of an alien resident of the United States and in the case of an alien individual

who is a bona fide resident of Puerto Rico during the entire taxable year, the amount of any such taxes paid or accrued during the taxable year to any foreign country; and

(4) Nonresident alien individuals and foreign corporations

In the case of any nonresident alien individual not described in section 876 and in the case of any foreign corporation, the amount determined pursuant to section 906; and

(5) Partnerships and estates

In the case of any person described in paragraph (1), (2), (3), or (4), who is a member of a partnership or a beneficiary of an estate or trust, the amount of his proportionate share of the taxes (described in such paragraph) of the partnership or the estate or trust paid or accrued during the taxable year to a foreign country or to any possession of the United States, as the case may be. Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust income.

(c) Similar credit required for certain alien residents

Whenever the President finds that—

(1) a foreign country, in imposing income, war profits, and excess profits taxes, does not allow to citizens of the United States residing in such foreign country a credit for any such taxes paid or accrued to the United States or any foreign country, as the case may be, similar to the credit allowed under subsection (b)(3),

(2) such foreign country, when requested by the United States to do so, has not acted to provide such a similar credit to citizens of the United States residing in such foreign country, and

(3) it is in the public interest to allow the credit under subsection (b)(3) to citizens or subjects of such foreign country only if it allows such a similar credit to citizens of the United States residing in such foreign country,

the President shall proclaim that, for taxable years beginning while the proclamation remains in effect, the credit under subsection (b)(3) shall be allowed to citizens or subjects of such foreign country only if such foreign country, in imposing income, war profits, and excess profits taxes, allows to citizens of the United States residing in such foreign country such a similar credit.

(d) Treatment of dividends from a DISC or former DISC

For purposes of this subpart, dividends from a DISC or former DISC (as defined in section 992(a)) shall be treated as dividends from a foreign corporation to the extent such dividends are treated under part I as income from sources without the United States.