

a foreign country shall be entitled to claim benefits under any income tax treaty between the United States and such foreign country with respect to dividends—

“(i) which are paid by such foreign corporation and with respect to which such foreign corporation is otherwise required to deduct and withhold tax under section 1441 or 1442, or

“(ii) which are received by such foreign corporation and are described in section 861(a)(2)(B).”

Subsec. (e)(4)(A)(i), (ii). Pub. L. 100-647, §1012(q)(5), substituted “50 percent or more” for “more than 50 percent” in cl. (i) and “citizens or residents of the United States” for “the United States” in cl. (ii).

Subsec. (e)(4)(C), (D). Pub. L. 100-647, §1012(q)(4), added subpar. (C) and redesignated former subpar. (C) as (D).

Subsec. (e)(5). Pub. L. 100-647, §1012(q)(6), added par. (5).

Subsec. (f)(1). Pub. L. 100-647, §1012(f)(3)(A), (14), substituted “this subtitle” for “sections 871, 881, 1441, and 1442” and inserted “(or having gross income treated as effectively connected with the conduct of a trade or business in the United States)” after “United States”.

Pub. L. 100-647, §1012(q)(2)(C)(i), (3)(B), inserted sentence at end and struck out former last sentence which read as follows: “Rules similar to the rules of subsection (e)(3)(B) shall apply to interest described in the preceding sentence.”

Subsec. (f)(3). Pub. L. 100-647, §1012(q)(2)(C)(ii), added par. (3).

EFFECTIVE DATE OF 1996 AMENDMENT

Section 1704(f)(3)(B) of Pub. L. 104-188 provided that: “The amendments made by subparagraph (A) [amending this section] shall take effect as if included in the amendments made by section 1241(a) of the Tax Reform Act of 1986 [Pub. L. 99-514].”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1012(q)(1)(A), (2)–(6), (14) of 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.

Amendment by section 6133(b) of Pub. L. 100-647 applicable to taxable years beginning after Dec. 31, 1988, see section 6133(c) of Pub. L. 100-647, set out as a note under section 882 of this title.

EFFECTIVE DATE

Section 1241(e) of Pub. L. 99-514 provided that: “The amendments made by this section [enacting section 884 of this title, renumbering former section 884 as section 885 of this title, and amending sections 861 and 906 of this title] shall apply to taxable years beginning after December 31, 1986.”

DETERMINATION OF EARNINGS AND PROFITS OF FOREIGN CORPORATIONS

Section 1012(q)(1)(B) of Pub. L. 100-647, as amended by Pub. L. 101-239, title VII, §7811(i)(5), Dec. 19, 1989, 103 Stat. 2410, provided that: “For purposes of applying section 884 of the 1986 Code, the earnings and profits of any corporation shall be determined without regard to any increase in earnings and profits under sections 1023(e)(3)(C) [section 1023(e)(3)(C) of Pub. L. 99-514, set out as an Effective Date note under section 846 of this title] and 1021(c)(2)(C) of the Reform Act [Pub. L. 99-514, set out as an Effective Date of 1986 Amendment note under section 832 of this title] or arising from section 832(b)(4)(C) of the 1986 Code.”

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

For nonapplication of amendment by section 1241(a) of Pub. L. 99-514 (enacting this section) 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.

§ 885. Cross references

(1) For special provisions relating to foreign corporations carrying on an insurance business within the United States, see section 842.

(2) For rules applicable in determining whether any foreign corporation is engaged in trade or business within the United States, see section 864(b).

(3) For adjustment of tax in case of corporations of certain foreign countries, see section 896.

(4) For allowance of credit against the tax in case of a foreign corporation having income effectively connected with the conduct of a trade or business within the United States, see section 906.

(5) For withholding at source of tax on income of foreign corporations, see section 1442.

(Aug. 16, 1954, ch. 736, 68A Stat. 283, § 884; Pub. L. 89-809, title I, §104(m)(1), Nov. 13, 1966, 80 Stat. 1563; Pub. L. 91-172, title I, §101(j)(21), Dec. 30, 1969, 83 Stat. 528; renumbered §885, Pub. L. 99-514, title XII, §1241(a), Oct. 22, 1986, 100 Stat. 2576.)

AMENDMENTS

1986—Pub. L. 99-514 renumbered section 884 of this title as this section.

1969—Pub. L. 91-172 redesignated pars. (2) to (6) as (1) to (5), respectively. Former par. (1), referring to section 512(a), was struck out.

1966—Par. (1). Pub. L. 89-809 redesignated par. (4) as (1). Former par. (1) redesignated (6).

Par. (2). Pub. L. 89-809 redesignated par. (3) as (2) and substituted “foreign corporations carrying on an insurance business within the United States, see section 842” for “foreign insurance companies, see subchapter L (sec. 801 and following)”. Former par. (2) redesignated (3).

Par. (3). Pub. L. 89-809 redesignated former par. (2) as (3) and, in par. (3) as so redesignated, substituted “section 864(b)” for “section 871(c)”. Former par. (3) redesignated (2).

Pars. (4), (5). Pub. L. 89-809 added pars. (4) and (5). Former par. (4) redesignated (1).

Par. (6). Pub. L. 89-809 redesignated former par. (1) as (6).

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable to taxable years beginning after Dec. 31, 1969, see section 101(k)(2)(B) of Pub. L. 91-172, set out as an Effective Date note under section 4940 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.

SUBPART C—TAX ON GROSS TRANSPORTATION INCOME

Sec.
887.

Imposition of tax on gross transportation income of nonresident aliens and foreign corporations.

§ 887. Imposition of tax on gross transportation income of nonresident aliens and foreign corporations

(a) Imposition of tax

In the case of any nonresident alien individual or foreign corporation, there is hereby imposed