

tion of this subsection for the taxable year described in subsection (a), then the amount described in paragraph (2) shall not be taken into account—

(A) in determining the amount of the net operating loss deduction under section 172 of such shareholder for such taxable year, or

(B) in determining the amount of taxable income for such taxable year which may be reduced by net operating loss carryovers or carrybacks to such taxable year under section 172.

(2) Amount described

The amount described in this paragraph is the sum of—

(A) the amount required to be taken into account under section 951(a)(1) by reason of this section (determined after the application of subsection (c)), plus

(B) in the case of a domestic corporation which chooses to have the benefits of subpart A of part III of subchapter N for the taxable year, the taxes deemed to be paid by such corporation under subsections (a) and (b) of section 960 for such taxable year with respect to the amount described in subparagraph (A) which are treated as a dividends² under section 78.

(3) Election

Any election under this subsection shall be made not later than the due date (including extensions) for filing the return of tax for the taxable year and shall be made in such manner as the Secretary shall prescribe.

(o) Regulations

The Secretary shall prescribe such regulations or other guidance as may be necessary or appropriate to carry out the provisions of this section, including—

(1) regulations or other guidance to provide appropriate basis adjustments, and

(2) regulations or other guidance to prevent the avoidance of the purposes of this section, including through a reduction in earnings and profits, through changes in entity classification or accounting methods, or otherwise.

(Added Pub. L. 108-357, title IV, § 422(a), Oct. 22, 2004, 118 Stat. 1514; amended Pub. L. 109-135, title IV, § 403(q), Dec. 21, 2005, 119 Stat. 2627; Pub. L. 115-97, title I, § 14103(a), Dec. 22, 2017, 131 Stat. 2195.)

REFERENCES IN TEXT

The date of the enactment of the Tax Cuts and Jobs Act, referred to in subsec. (l)(1), probably means the date of the enactment of title I of Pub. L. 115-97, which was approved Dec. 22, 2017. Prior versions of the bill that was enacted into law as Pub. L. 115-97 included such Short Title, but it was not enacted as part of title I of Pub. L. 115-97.

AMENDMENTS

2017—Pub. L. 115-97 amended section generally. Prior to amendment, section related to temporary dividends received deduction.

2005—Subsec. (a)(2)(B). Pub. L. 109-135, § 403(q)(1), inserted “from another controlled foreign corporation in such chain of ownership” before “, but only to the extent”.

² So in original.

Subsec. (b)(2)(A). Pub. L. 109-135, § 403(q)(2), inserted “cash” before “dividends”.

Subsec. (b)(3). Pub. L. 109-135, § 403(q)(3), inserted at end “The Secretary may prescribe such regulations as may be necessary or appropriate to prevent the avoidance of the purposes of this paragraph, including regulations which provide that cash dividends shall not be taken into account under subsection (a) to the extent such dividends are attributable to the direct or indirect transfer (including through the use of intervening entities or capital contributions) of cash or other property from a related person (as so defined) to a controlled foreign corporation.”

Subsec. (c)(1). Pub. L. 109-135, § 403(q)(4), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “The term ‘applicable financial statement’ means, with respect to a United States shareholder, the most recently audited financial statement (including notes and other documents which accompany such statement) which includes such shareholder—

“(A) which is certified on or before June 30, 2003, as being prepared in accordance with generally accepted accounting principles, and

“(B) which is used for the purposes of a statement or report—

“(i) to creditors,

“(ii) to shareholders, or

“(iii) for any other substantial nontax purpose.

In the case of a corporation required to file a financial statement with the Securities and Exchange Commission, such term means the most recent such statement filed on or before June 30, 2003.”

Subsec. (d)(2). Pub. L. 109-135, § 403(q)(5), substituted “directly allocable” for “properly allocated and apportioned”.

Subsec. (d)(4). Pub. L. 109-135, § 403(q)(6), added par. (4).

Subsec. (e)(1). Pub. L. 109-135, § 403(q)(7), inserted “which are imposed by foreign countries and possessions of the United States and are” after “taxes” in concluding provisions.

Subsec. (f). Pub. L. 109-135, § 403(q)(8), inserted “on or” before “before the due date” in concluding provisions.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendments by Pub. L. 109-135 effective as if included in the provisions of the American Jobs Creation Act of 2004, Pub. L. 108-357, to which they relate, see section 403(nn) of Pub. L. 109-135, set out as a note under section 26 of this title.

EFFECTIVE DATE

Section applicable to taxable years ending on or after Oct. 22, 2004, see section 422(d) of Pub. L. 108-357, set out as an Effective Date of 2004 Amendments note under section 56 of this title.

SUBPART G—EXPORT TRADE CORPORATIONS

Sec.

970. Reduction of subpart F income of export trade corporations.

971. Definitions.

[972. Repealed.]

AMENDMENTS

1976—Pub. L. 94-455, title XIX, § 1901(b)(27)(B), Oct. 4, 1976, 90 Stat. 1799, struck out item 972 “Consolidation of group of export trade corporations”.

1962—Pub. L. 87-834, § 12(a), Oct. 16, 1962, 76 Stat. 1027, added heading of subpart G, and items 970 to 972.

§ 970. Reduction of subpart F income of export trade corporations

(a) Export trade income constituting foreign base company income

(1) In general

In the case of a controlled foreign corporation (as defined in section 957) which for the