

## EFFECTIVE DATE OF 1964 AMENDMENT

Pub. L. 88-272, title II, §214(c), Feb. 26, 1964, 78 Stat. 55, provided that: “The amendments made by subsections (a) [amending this section] and (b) [amending sections 244, 246, 804, and 809 of this title] shall apply with respect to dividends received in taxable years ending after December 31, 1963.”

## EFFECTIVE DATE OF 1960 AMENDMENT

Pub. L. 86-779, §3(c), Sept. 14, 1960, 74 Stat. 998, provided that: “The amendments made by subsections (a) and (b) [amending this section and section 861 of this title] shall apply to dividends received after December 31, 1959, in taxable years ending after such date.”

Amendment by section 10(g) of Pub. L. 86-779 applicable with respect to taxable years of real estate investment trusts beginning after Dec. 31, 1960, see section 10(k) of Pub. L. 86-779, set out as an Effective Date note under section 856 of this title.

## EFFECTIVE DATE OF 1958 AMENDMENT

Pub. L. 85-866, §57(d), Sept. 2, 1958, 72 Stat. 1646, provided that: “The amendments made by this section [enacting sections 1242 and 1243 and amending this section and sections 165 and 246 of this title] shall apply with respect to taxable years beginning after the date of the enactment of this Act [Sept. 2, 1958].”

## SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 115-141 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Mar. 23, 2018, for purposes of determining liability for tax for periods ending after Mar. 23, 2018, see section 401(e) of Pub. L. 115-141, set out as a note under section 23 of this title.

For provisions that nothing in amendment by Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

**[§ 244. Repealed. Pub. L. 113-295, div. A, title II, § 221(a)(41)(A), Dec. 19, 2014, 128 Stat. 4043]**

Section, Aug. 16, 1954, ch. 736, 68A Stat. 73; Pub. L. 88-272, title II, §214(b)(1), Feb. 26, 1964, 78 Stat. 55; Pub. L. 95-600, title III, §301(b)(3), Nov. 6, 1978, 92 Stat. 2820; Pub. L. 99-514, title VI, §611(a)(2), Oct. 22, 1986, 100 Stat. 2249; Pub. L. 100-203, title X, §10221(a)(2), Dec. 22, 1987, 101 Stat. 1330-408; Pub. L. 100-647, title II, §2004(i)(2), Nov. 10, 1988, 102 Stat. 3603, allowed to corporations as a deduction a percentage of the amount received as dividends on the preferred stock of a public utility.

## EFFECTIVE DATE OF REPEAL

Repeal not applicable to preferred stock issued before Oct. 1, 1942 (determined in the same manner as under section 247 of this title as in effect before its repeal by Pub. L. 113-295), see section 221(a)(41)(K) of Pub. L. 113-295, set out as an Effective Date of 2014 Amendment note under section 172 of this title.

Except as otherwise provided in section 221(a) of Pub. L. 113-295, repeal effective Dec. 19, 2014, subject to a savings provision, see section 221(b) of Pub. L. 113-295, set out as an Effective Date of 2014 Amendment note under section 1 of this title.

**§ 245. Dividends received from certain foreign corporations**

**(a) Dividends from 10-percent owned foreign corporations**

**(1) In general**

In the case of dividends received by a corporation from a qualified 10-percent owned for-

ign corporation, there shall be allowed as a deduction an amount equal to the percent (specified in section 243 for the taxable year) of the U.S.-source portion of such dividends.

**(2) Qualified 10-percent owned foreign corporation**

For purposes of this subsection, the term “qualified 10-percent owned foreign corporation” means any foreign corporation (other than a passive foreign investment company) if at least 10 percent of the stock of such corporation (by vote and value) is owned by the taxpayer.

**(3) U.S.-source portion**

For purposes of this subsection, the U.S.-source portion of any dividend is an amount which bears the same ratio to such dividend as—

(A) the post-1986 undistributed U.S. earnings, bears to

(B) the total post-1986 undistributed earnings.

**(4) Post-1986 undistributed earnings**

The term “post-1986 undistributed earnings” means the amount of the earnings and profits of the foreign corporation (computed in accordance with sections 964(a) and 986) accumulated in taxable years beginning after December 31, 1986—

(A) as of the close of the taxable year of the foreign corporation in which the dividend is distributed, and

(B) without diminution by reason of dividends distributed during such taxable year.

**(5) Post-1986 undistributed U.S. earnings**

For purposes of this subsection, the term “post-1986 undistributed U.S. earnings” means the portion of the post-1986 undistributed earnings which is attributable to—

(A) income of the qualified 10-percent owned foreign corporation which is effectively connected with the conduct of a trade or business within the United States and subject to tax under this chapter, or

(B) any dividend received (directly or through a wholly owned foreign corporation) from a domestic corporation at least 80 percent of the stock of which (by vote and value) is owned (directly or through such wholly owned foreign corporation) by the qualified 10-percent owned foreign corporation.

**(6) Special rule**

If the 1st day on which the requirements of paragraph (2) are met with respect to any foreign corporation is in a taxable year of such corporation beginning after December 31, 1986, the post-1986 undistributed earnings and the post-1986 undistributed U.S. earnings of such corporation shall be determined by only taking into account periods beginning on and after the 1st day of the 1st taxable year in which such requirements are met.

**(7) Coordination with subsection (b)**

Earnings and profits of any qualified 10-percent owned foreign corporation for any taxable year shall not be taken into account

under this subsection if the deduction provided by subsection (b) would be allowable with respect to dividends paid out of such earnings and profits.

**(8) Disallowance of foreign tax credit**

No credit shall be allowed under section 901 for any taxes paid or accrued (or treated as paid or accrued) with respect to the United States-source portion of any dividend received by a corporation from a qualified 10-percent-owned foreign corporation.

**(9) Coordination with section 904**

For purposes of section 904, the U.S.-source portion of any dividend received by a corporation from a qualified 10-percent owned foreign corporation shall be treated as from sources in the United States.

**(10) Coordination with treaties**

If—

(A) any portion of a dividend received by a corporation from a qualified 10-percent-owned foreign corporation would be treated as from sources in the United States under paragraph (9),

(B) under a treaty obligation of the United States (applied without regard to this subsection), such portion would be treated as arising from sources outside the United States, and

(C) the taxpayer chooses the benefits of this paragraph,

this subsection shall not apply to such dividend (but subsections (a), (b), and (c) of section 904 and sections 907 and 960 shall be applied separately with respect to such portion of such dividend).

**(11) Coordination with section 1248**

For purposes of this subsection, the term “dividend” does not include any amount treated as a dividend under section 1248.

**(12) Dividends derived from RICs and REITs ineligible for deduction**

Regulated investment companies and real estate investment trusts shall not be treated as domestic corporations for purposes of paragraph (5)(B).

**(b) Certain dividends received from wholly owned foreign subsidiaries**

**(1) In general**

In the case of dividends described in paragraph (2) received from a foreign corporation by a domestic corporation which, for its taxable year in which such dividends are received, owns (directly or indirectly) all of the outstanding stock of such foreign corporation, there shall be allowed as a deduction (in lieu of the deduction provided by subsection (a)) an amount equal to 100 percent of such dividends.

**(2) Eligible dividends**

Paragraph (1) shall apply only to dividends which are paid out of the earnings and profits of a foreign corporation for a taxable year during which—

(A) all of its outstanding stock is owned (directly or indirectly) by the domestic corporation to which such dividends are paid; and

(B) all of its gross income from all sources is effectively connected with the conduct of a trade or business within the United States.

**(3) Exception**

Paragraph (1) shall not apply to any dividends if an election under section 1562 is effective for either—

(A) the taxable year of the domestic corporation in which such dividends are received, or

(B) the taxable year of the foreign corporation out of the earnings and profits of which such dividends are paid.

**(c) Certain dividends received from FSC**

**(1) In general**

In the case of a domestic corporation, there shall be allowed as a deduction an amount equal to—

(A) 100 percent of any dividend received from another corporation which is distributed out of earnings and profits attributable to foreign trade income for a period during which such other corporation was a FSC, and

(B) 50 percent (65 percent in the case of dividends from a 20-percent owned corporation as defined in section 243(c)(2)) of any dividend received from another corporation which is distributed out of earnings and profits attributable to effectively connected income received or accrued by such other corporation while such other corporation was a FSC.

**(2) Exception for certain dividends**

Paragraph (1) shall not apply to any dividend which is distributed out of earnings and profits attributable to foreign trade income which—

(A) is section 923(a)(2) nonexempt income (within the meaning of section 927(d)(6)), or

(B) would not, but for section 923(a)(4), be treated as exempt foreign trade income.

**(3) No deduction under subsection (a) or (b)**

No deduction shall be allowable under subsection (a) or (b) with respect to any dividend which is distributed out of earnings and profits of a corporation accumulated while such corporation was a FSC.

**(4) Definitions**

For purposes of this subsection—

**(A) Foreign trade income; exempt foreign trade income**

The terms “foreign trade income” and “exempt foreign trade income” have the respective meanings given such terms by section 923.

**(B) Effectively connected income**

The term “effectively connected income” means any income which is effectively connected (or treated as effectively connected) with the conduct of a trade or business in the United States and is subject to tax under this chapter. Such term shall not include any foreign trade income.

**(C) FSC**

The term “FSC” has the meaning given such term by section 922.

**(5) References to prior law**

Any reference in this subsection to section 922, 923, or 927 shall be treated as a reference to such section as in effect before its repeal by the FSC Repeal and Extraterritorial Income Exclusion Act of 2000.

(Aug. 16, 1954, ch. 736, 68A Stat. 73; Pub. L. 87-834, §5(c), Oct. 16, 1962, 76 Stat. 977; Pub. L. 89-809, title I, §104(d), (e), Nov. 13, 1966, 80 Stat. 1558; Pub. L. 98-369, div. A, title VIII, §801(b)(1), (2)(B), July 18, 1984, 98 Stat. 994, 995; Pub. L. 99-514, title XII, §1226(a), title XVIII, §1876(d)(1), (j), Oct. 22, 1986, 100 Stat. 2559, 2898, 2900; Pub. L. 100-203, title X, §10221(d)(1), Dec. 22, 1987, 101 Stat. 1330-409; Pub. L. 100-647, title I, §§1006(e)(16), 1012(l)(2), (3), (bb)(9)(A), Nov. 10, 1988, 102 Stat. 3403, 3513, 3537; Pub. L. 101-239, title VII, §7811(i)(14), Dec. 19, 1989, 103 Stat. 2411; Pub. L. 108-357, title IV, §413(c)(3), Oct. 22, 2004, 118 Stat. 1507; Pub. L. 110-172, §11(g)(3), (4), Dec. 29, 2007, 121 Stat. 2490; Pub. L. 114-113, div. Q, title III, §326(a), Dec. 18, 2015, 129 Stat. 3103; Pub. L. 115-97, title I, §§13002(b), 14301(c)(2), (3), Dec. 22, 2017, 131 Stat. 2100, 2222.)

**REFERENCES IN TEXT**

Section 1562, referred to in subsec. (b)(3), was repealed by Pub. L. 91-172, title IV, §401(a)(2), Dec. 30, 1969, 83 Stat. 600.

The FSC Repeal and Extraterritorial Income Exclusion Act of 2000, referred to in subsec. (c)(5), is Pub. L. 106-519, Nov. 15, 2000, 114 Stat. 2423. For complete classification of this Act to the Code, see Short Title of 2000 Amendments note set out under section 1 of this title and Tables.

**AMENDMENTS**

2017—Subsec. (a)(4). Pub. L. 115-97, §14301(c)(2), amended par. (4) generally. Prior to amendment, text read as follows: “For purposes of this subsection, the term ‘post-1986 undistributed earnings’ has the meaning given to such term by section 902(c)(1).”

Subsec. (a)(10). Pub. L. 115-97, §14301(c)(3), which directed amendment of subsec. (a)(10)(C) by substituting “907 and 960” for “902, 907, and 960”, was executed by making the substitution in concluding provisions of subsec. (a)(10) to reflect the probable intent of Congress.

Subsec. (c)(1)(B). Pub. L. 115-97, §13002(b), substituted “50 percent” for “70 percent” and “65 percent” for “80 percent”.

2015—Subsec. (a)(12). Pub. L. 114-113 added par. (12).

2007—Subsec. (c)(4)(C). Pub. L. 110-172, §11(g)(3), added subpar. (C).

Subsec. (c)(5). Pub. L. 110-172, §11(g)(4), added par. (5).

2004—Subsec. (a)(2). Pub. L. 108-357 struck out “foreign personal holding company or” after “(other than a”.

1989—Subsec. (a)(8). Pub. L. 101-239 made clarifying amendment to directory language of Pub. L. 100-647, §1012(l)(2)(A), see 1988 Amendment note below.

1988—Subsec. (a)(8). Pub. L. 100-647, §1012(l)(2)(A), as amended by Pub. L. 101-239, substituted “Disallowance of foreign tax credit” for “Coordination with section 902” in heading and amended text generally. Prior to amendment, text read as follows: “In the case of a dividend received by a corporation from a qualified 10-percent owned foreign corporation, no credit shall be allowed under section 901 for any taxes treated as paid under section 902 with respect to the U.S.-source portion of such dividend.”

Subsec. (a)(10), (11). Pub. L. 100-647, §1012(l)(2)(B), (3), added pars. (10) and (11).

Subsec. (c). Pub. L. 100-647, §1012(bb)(9)(A), amended subsec. (c) generally, revising and restating provisions of pars. (1) to (4).

Subsec. (d). Pub. L. 100-647, §1006(e)(16), struck out subsec. (d) which read as follows: “PROPERTY DISTRIBUTIONS.—For purposes of this section, the amount of any distribution of property other than money shall be the amount determined by applying section 301(b)(1)(B).”

1987—Subsec. (c)(1)(B). Pub. L. 100-203 substituted “70 percent (80 percent in the case of dividends from a 20-percent owned corporation as defined in section 243(c)(2))” for “85 percent”.

1986—Subsec. (a). Pub. L. 99-514, §1226(a), in amending subsec. (a) generally, substituted “Dividends from 10-percent owned foreign corporations” for “General rule” as heading, and in text substituted provisions set out in nine numbered paragraphs allowing for deduction for dividends received from certain foreign corporations qualifying as “10-percent owned foreign corporations” for former provisions which directed that, in the case of dividends received from a foreign corporation (other than a foreign personal holding company) which was subject to taxation under this chapter, if, for an uninterrupted period of not less than 36 months ending with the close of such foreign corporation’s taxable year in which such dividends were paid (or, if the corporation had not been in existence for 36 months at the close of such taxable year, for the period the foreign corporation had been in existence as of the close of such taxable year) such foreign corporation had been engaged in trade or business within the United States and if 50 percent or more of the gross income of such corporation from all sources for such period was effectively connected with the conduct of a trade or business within the United States, there was allowed as a deduction in the case of a corporation a percentage of dividends received.

Subsec. (c)(1). Pub. L. 99-514, §1876(d)(1)(A), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “In the case of a domestic corporation, there shall be allowed as a deduction an amount equal to 100 percent of any dividend received by such corporation from another corporation which is distributed out of earnings and profits attributable to foreign trade income for a period during which such other corporation was a FSC. The deduction allowable under the preceding sentence with respect to any dividend shall be in lieu of any deduction allowable under subsection (a) or (b) with respect to such dividend.”

Subsec. (c)(3). Pub. L. 99-514, §1876(j), added par. (3). Former par. (3) redesignated (4).

Pub. L. 99-514, §1876(d)(1)(B), inserted “For purposes of this subsection, the term ‘qualified interest and carrying charges’ means any interest or carrying charges (as defined in section 927(d)(1)) derived from a transaction which results in foreign trade income.”

Subsec. (c)(4). Pub. L. 99-514, §1876(j), redesignated former par. (3) as (4).

1984—Subsec. (c). Pub. L. 98-369 added subsec. (c), redesignated former subsec. (c) as (d), and substituted therein “this section” for “subsections (a) and (b)”.

1966—Subsec. (a). Pub. L. 89-809, §104(d), (e)(2), substituted “and if 50 percent or more of the gross income of such corporation from all sources for such period is effectively connected with the conduct of a trade or business within the United States” for “and has derived 50 percent or more of its gross income from sources within the United States” in provisions preceding par. (1), “which is effectively connected with the conduct of a trade or business within the United States” for “from sources within the United States” in par. (1), “, which is effectively connected with the conduct of a trade or business within the United States,” for “from sources within the United States” in par. (2), and inserted provisions following par. (2).

Subsecs. (b), (c). Pub. L. 89-809, §104(e)(1), (3), added subsec. (b), redesignated former subsec. (b) as (c), and substituted therein “subsections (a) and (b)” for “subsection (a)”.

1962—Subsec. (b). Pub. L. 87-834 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

## EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by section 13002(b) of Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section 13002(f) of Pub. L. 115-97, set out as a note under section 243 of this title.

Amendment by section 14301(c)(2), (3) of Pub. L. 115-97 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 a note under section 78 of this title.

## EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-113, div. Q, title III, §326(b), Dec. 18, 2015, 129 Stat. 3104, provided that: "The amendment made by this section [amending this section] shall apply to dividends received from regulated investment companies and real estate investment trusts on or after the date of the enactment of this Act [Dec. 18, 2015]."

## 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 OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100-647, to which such amendment relates, see section 7817 of Pub. L. 101-239, set out as a note under section 1 of this title.

## EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title I, §1012(bb)(9)(B), Nov. 10, 1988, 102 Stat. 3537, provided that: "The amendment made by subparagraph (A) [amending this section] shall apply as if included in the provision of the Tax Reform Act of 1984 [Pub. L. 98-369, div. A] to which it relates."

Amendment by sections 1006(e)(16) and 1012(l)(2), (3) 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.

## EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to dividends received or accrued after Dec. 31, 1987, in taxable years ending after such date, see section 10221(e)(1) of Pub. L. 100-203, set out as a note under section 243 of this title.

## EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-514, title XII, §1226(c)(1), Oct. 22, 1986, 100 Stat. 2560, provided that: "The amendment made by subsection (a) [amending this section] shall apply to distributions out of earnings and profits for taxable years beginning after December 31, 1986."

Amendment by section 1876(d)(1), (j) of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

## EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title VIII, §805(a), July 18, 1984, 98 Stat. 1000, as amended by Pub. L. 99-514, §2, title XVIII, §1876(i), (o), (p)(4), Oct. 22, 1986, 100 Stat. 2095, 2900-2902, provided that:

"(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this title [enacting sections 921 to 927 of this title, amending this section

and sections 246, 274, 275, 441, 901, 904, 906, 934, 936, 951, 956, 992, 993, 995, 996, 999, 1248, 6011, 6072, 6501, 6686, and 7651 of this title, and enacting provisions set out as notes under sections 921 and 991 of this title] shall apply to transactions after December 31, 1984, in taxable years ending after such date.

"(2) SPECIAL RULE FOR CERTAIN CONTRACTS.—To the extent provided in regulations prescribed by the Secretary of the Treasury or his delegate, any event or activity required to occur or required to be performed, before January 1, 1985, by section 924(c) or (d) or 925(c) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] shall be treated as meeting the requirements of such section if such event or activity is with respect to—

"(A) any lease of more than 3 years duration which was entered into before January 1, 1985,

"(B) any contract with respect to which the taxpayer uses the completed contract method of accounting which was entered into before January 1, 1985, or

"(C) in the case of any contract other than a lease or contract described in subparagraph (A) or (B), any contract which was entered into before January 1, 1985; except that this subparagraph shall only apply to the first 3 taxable years of the FSC ending after January 1, 1985, or such later taxable years as the Secretary of the Treasury or his delegate may prescribe.

"(3) SECTION 801(d)(10).—The amendment made by section 801(d)(10) [amending section 996 of this title] shall apply to distributions on or after June 22, 1984.

"(4) SECTION 803.—The amendments made by section 803 [amending section 441 of this title] shall apply to taxable years beginning after December 31, 1984."

## 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.

## EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-834 applicable to distributions made after Dec. 31, 1962, see section 5(d) of Pub. L. 87-834, set out as a note under section 301 of this title.

## CONSTRUCTION OF 2015 AMENDMENT

Pub. L. 114-113, div. Q, title III, §326(c), Dec. 18, 2015, 129 Stat. 3104, provided that: "Nothing contained in this section [amending this section and enacting provisions set out as a note above] or the amendments made by this section shall be construed to create any inference with respect to the proper treatment under section 245 of the Internal Revenue Code of 1986 of dividends received from regulated investment companies or real estate investment trusts before the date of the enactment of this Act [Dec. 18, 2015]."

## DIVIDENDS RECEIVED OR ACCRUED DURING 1987

Pub. L. 100-647, title I, §1006(b)(1), Nov. 10, 1988, 102 Stat. 3393, provided that: "In the case of dividends received or accrued during 1987—

"(A) subparagraph (B) of section 245(c)(1) of the 1986 Code shall be applied by substituting '80 percent' for the percentage specified therein, and

"(B) subparagraph (B) of section 861(a)(2) of the 1986 Code shall be applied by substituting '100ths' for the fraction specified therein."

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.

**§ 245A. Deduction for foreign source-portion of dividends received by domestic corporations from specified 10-percent owned foreign corporations**

**(a) In general**

In the case of any dividend received from a specified 10-percent owned foreign corporation by a domestic corporation which is a United States shareholder with respect to such foreign corporation, there shall be allowed as a deduction an amount equal to the foreign-source portion of such dividend.

**(b) Specified 10-percent owned foreign corporation**

For purposes of this section—

**(1) In general**

The term “specified 10-percent owned foreign corporation” means any foreign corporation with respect to which any domestic corporation is a United States shareholder with respect to such corporation.

**(2) Exclusion of passive foreign investment companies**

Such term shall not include any corporation which is a passive foreign investment company (as defined in section 1297) with respect to the shareholder and which is not a controlled foreign corporation.

**(c) Foreign-source portion**

For purposes of this section—

**(1) In general**

The foreign-source portion of any dividend from a specified 10-percent owned foreign corporation is an amount which bears the same ratio to such dividend as—

(A) the undistributed foreign earnings of the specified 10-percent owned foreign corporation, bears to

(B) the total undistributed earnings of such foreign corporation.

**(2) Undistributed earnings**

The term “undistributed earnings” means the amount of the earnings and profits of the specified 10-percent owned foreign corporation (computed in accordance with sections 964(a) and 986)—

(A) as of the close of the taxable year of the specified 10-percent owned foreign corporation in which the dividend is distributed, and

(B) without diminution by reason of dividends distributed during such taxable year.

**(3) Undistributed foreign earnings**

The term “undistributed foreign earnings” means the portion of the undistributed earnings which is attributable to neither—

(A) income described in subparagraph (A) of section 245(a)(5), nor

(B) dividends described in subparagraph (B) of such section (determined without regard to section 245(a)(12)).

**(d) Disallowance of foreign tax credit, etc.**

**(1) In general**

No credit shall be allowed under section 901 for any taxes paid or accrued (or treated as

paid or accrued) with respect to any dividend for which a deduction is allowed under this section.

**(2) Denial of deduction**

No deduction shall be allowed under this chapter for any tax for which credit is not allowable under section 901 by reason of paragraph (1) (determined by treating the taxpayer as having elected the benefits of subpart A of part III of subchapter N).

**(e) Special rules for hybrid dividends**

**(1) In general**

Subsection (a) shall not apply to any dividend received by a United States shareholder from a controlled foreign corporation if the dividend is a hybrid dividend.

**(2) Hybrid dividends of tiered corporations**

If a controlled foreign corporation with respect to which a domestic corporation is a United States shareholder receives a hybrid dividend from any other controlled foreign corporation with respect to which such domestic corporation is also a United States shareholder, then, notwithstanding any other provision of this title—

(A) the hybrid dividend shall be treated for purposes of section 951(a)(1)(A) as subpart F income of the receiving controlled foreign corporation for the taxable year of the controlled foreign corporation in which the dividend was received, and

(B) the United States shareholder shall include in gross income an amount equal to the shareholder's pro rata share (determined in the same manner as under section 951(a)(2)) of the subpart F income described in subparagraph (A).

**(3) Denial of foreign tax credit, etc.**

The rules of subsection (d) shall apply to any hybrid dividend received by, or any amount included under paragraph (2) in the gross income of, a United States shareholder.

**(4) Hybrid dividend**

The term “hybrid dividend” means an amount received from a controlled foreign corporation—

(A) for which a deduction would be allowed under subsection (a) but for this subsection, and

(B) for which the controlled foreign corporation received a deduction (or other tax benefit) with respect to any income, war profits, or excess profits taxes imposed by any foreign country or possession of the United States.

**(f) Special rule for purging distributions of passive foreign investment companies**

Any amount which is treated as a dividend under section 1291(d)(2)(B) shall not be treated as a dividend for purposes of this section.

**(g) 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 regulations for the treatment of United States shareholders owning stock of a