

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and section 904 of this title] shall apply to taxable years beginning after December 31, 1982.

“(2) RETENTION OF OLD SECTIONS 907(b) AND 904(f)(4) WHERE TAXPAYER HAD SEPARATE BASKET FOREIGN LOSS.—

“(A) IN GENERAL.—If, after applying old sections 907(b) and 904(f)(4) to a taxable year beginning before January 1, 1983, the taxpayer had a separate basket foreign loss, such loss shall not be recaptured from income of a kind not taken into account in computing the amount of such separate basket foreign loss more rapidly than ratably over the 8-year period (or such shorter period as the taxpayer may select) beginning with the first taxable year beginning after December 31, 1982.

“(B) DEFINITIONS.—For purposes of this paragraph—

“(i) The term ‘separate basket foreign loss’ means any foreign loss attributable to activities taken into account (or not taken into account) in determining foreign oil related income (as defined in old section 907(c)(2)).

“(ii) An ‘old’ section is such section as in effect on the day before the date of the enactment of this Act [Sept. 3, 1982].”

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 301(b)(14) of Pub. L. 95-600 applicable to taxable years beginning after Dec. 31, 1978, see section 301(c) of Pub. L. 95-600, set out as a note under section 11 of this title.

Pub. L. 95-600, title VII, §701(u)(8)(D), Nov. 6, 1978, 92 Stat. 2916, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(i) The amendments made by this paragraph [amending this section and section 904 of this title] shall apply, in the case of individuals, to taxable years ending after December 31, 1974, and, in the case of corporations, to taxable years ending after December 31, 1976.

“(ii) In the case of any taxable year ending after December 31, 1975, with respect to foreign oil related income (within the meaning of section 907(c) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]), the overall limitation provided by section 904(a)(2) of such Code shall apply and the per-country limitation provided by section 904(a)(1) of such Code shall not apply.”

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1031(b)(6)(A) of Pub. L. 94-455 applicable to taxable years beginning after Dec. 31, 1975, with exceptions for certain mining operations, income from possessions, and carryback and carryover in the case of mining operations and income from a possession, see section 1031(c) of Pub. L. 94-455, set out as a note under section 904 of this title.

Amendment by section 1032(b)(1) of Pub. L. 94-455 applicable to taxable years beginning after Dec. 31, 1975, and amendment by section 1032(b)(2) of Pub. L. 94-455 applicable to losses sustained in taxable years beginning after Dec. 31, 1975, see section 1032(c) of Pub. L. 94-455, set out as a note under section 904 of this title.

Pub. L. 94-455, title X, §1035(e), Oct. 4, 1976, 90 Stat. 1633, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) The amendment made by subsection (a) [amending this section] shall apply to taxable years ending after December 31, 1976.

“(2) The amendment made by subsection (b) [amending this section] shall apply to taxable years ending after December 31, 1974; except that the last sentence of section 907(b) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] shall only apply to taxable years ending after December 31, 1975.

“(3) The amendment made by subsection (c) [enacting provisions set out below] shall apply to taxable years beginning after June 29, 1976.

“(4) The amendments made by subsection (d) [amending this section] shall apply to taxes paid or accrued

during taxable years ending after the date of the enactment of this Act [Oct. 4, 1976].”

Amendment by section 1052(c)(4) of Pub. L. 94-455 effective with respect to taxable years beginning after December 31, 1979, see section 1052(d) of Pub. L. 94-455, set out as a note under section 170 of this title.

EFFECTIVE DATE

Pub. L. 94-12, title VI, §601(d), Mar. 29, 1975, 89 Stat. 58, provided that: “The amendments made by this section [enacting this section and amending section 901 of this title] shall apply to taxable years ending after December 31, 1974; except that—

“(1) the second sentence of section 907(b) shall apply to taxable years ending after December 31, 1975, and

“(2) the provisions of section 907(f) shall apply to losses sustained in taxable years ending after December 31, 1975.”

SAVINGS PROVISION

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.

TAX CREDIT FOR PRODUCTION-SHARING CONTRACTS

Pub. L. 94-455, title X, §1035(c), Oct. 4, 1976, 90 Stat. 1631, as amended by Pub. L. 95-600, title VII, §§701(u)(9), 703(h)(1), Nov. 6, 1978, 92 Stat. 2916, 2940; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) For purposes of section 901 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], there shall be treated as income, war profits, and excess profits taxes to be taken into account under section 907(a) of such Code amounts designated as income taxes of a foreign government by such government (which otherwise would not be treated as taxes for purposes of section 901 of such Code) with respect to production-sharing contracts for the extraction of foreign oil or gas.

“(2) The amounts specified in paragraph (1) shall not exceed the lesser of—

“(A) the product of the foreign oil and gas extraction income (as defined in section 907(c) of such Code) with respect to all such production-sharing contracts multiplied by the sum of the normal tax rate and the surtax rate for the taxable year specified in section 11 of such Code, or

“(B) the excess of the total amount of foreign oil and gas extraction income (as so defined) for the taxable year multiplied by the sum of the normal tax rate and the surtax rate for the taxable year specified in section 11 of such Code over the amount of any income, war profits, and excess profits taxes paid or accrued (or deemed to have been paid) without regard to paragraph (1) during the taxable year with respect to foreign oil and gas extraction income.

“(3) The production-sharing contracts taken into account for purposes of paragraph (1) shall be those contracts which were entered into before April 8, 1976, for the sharing of foreign oil and gas production with a foreign government (or an entity owned by such government) with respect to which amounts claimed as taxes paid or accrued to such foreign government for taxable years beginning before June 30, 1976, will not be disallowed as taxes. A contract described in the preceding sentence shall be taken into account under paragraph (1) only with respect to amounts (A) paid or accrued to the foreign government before January 1, 1978, and (B) attributable to income earned before such date.”

§ 908. Reduction of credit for participation in or cooperation with an international boycott

(a) In general

If a person, or a member of a controlled group (within the meaning of section 993(a)(3)) which

includes such person, participates in or cooperates with an international boycott during the taxable year (within the meaning of section 999(b)), the amount of the credit allowable under section 901 to such person, or under section 960 to United States shareholders of such person, for foreign taxes paid during the taxable year shall be reduced by an amount equal to the product of—

- (1) the amount of the credit which, but for this section, would be allowed under section 901 for the taxable year, multiplied by
- (2) the international boycott factor (determined under section 999).

(b) Application with sections 275(a)(4) and 78

Section 275(a)(4) and section 78 shall not apply to any amount of taxes denied credit under subsection (a).

(Added Pub. L. 94-455, title X, §1061(a), Oct. 4, 1976, 90 Stat. 1649; amended Pub. L. 115-97, title I, §14301(c)(28), Dec. 22, 2017, 131 Stat. 2224.)

AMENDMENTS

2017—Subsec. (a). Pub. L. 115-97 struck out “902 or” after “or under section” in introductory provisions.

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by 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

Pub. L. 94-455, title X, §1066(a), Oct. 4, 1976, 90 Stat. 1654, provided that:

“(1) GENERAL RULE.—The amendments made by this part (other than by section 1065) [enacting this section and section 999 of this title and amending sections 952 and 995 of this title] apply to participation in or cooperation with an international boycott more than 30 days after the date of enactment of this Act [Oct. 4, 1976].

“(2) EXISTING CONTRACTS.—In the case of operations which constitute participation in or cooperation with an international boycott and which are carried out in accordance with the terms of a binding contract entered into before September 2, 1976, the amendments made by this part (other than by section 1065) apply to such participation or cooperation after December 31, 1977.”

§ 909. Suspension of taxes and credits until related income taken into account

(a) In general

If there is a foreign tax credit splitting event with respect to a foreign income tax paid or accrued by the taxpayer, such tax shall not be taken into account for purposes of this title before the taxable year in which the related income is taken into account under this chapter by the taxpayer.

(b) Special rules with respect to specified 10-percent owned foreign corporations

If there is a foreign tax credit splitting event with respect to a foreign income tax paid or accrued by a specified 10-percent owned foreign corporation (as defined in section 245A(b) without regard to paragraph (2) thereof), such tax shall not be taken into account—

- (1) for purposes of section 960, or
 - (2) for purposes of determining earnings and profits under section 964(a),
- before the taxable year in which the related income is taken into account under this chapter by such specified 10-percent owned foreign corporation or a domestic corporation which is a United States shareholder with respect to such specified 10-percent owned foreign corporation.

(c) Special rules

For purposes of this section—

(1) Application to partnerships, etc.

In the case of a partnership, subsections (a) and (b) shall be applied at the partner level. Except as otherwise provided by the Secretary, a rule similar to the rule of the preceding sentence shall apply in the case of any S corporation or trust.

(2) Treatment of foreign taxes after suspension

In the case of any foreign income tax not taken into account by reason of subsection (a) or (b), except as otherwise provided by the Secretary, such tax shall be so taken into account in the taxable year referred to in such subsection (other than for purposes of section 986(a)) as a foreign income tax paid or accrued in such taxable year.

(d) Definitions

For purposes of this section—

(1) Foreign tax credit splitting event

There is a foreign tax credit splitting event with respect to a foreign income tax if the related income is (or will be) taken into account under this chapter by a covered person.

(2) Foreign income tax

The term “foreign income tax” means any income, war profits, or excess profits tax paid or accrued to any foreign country or to any possession of the United States.

(3) Related income

The term “related income” means, with respect to any portion of any foreign income tax, the income (or, as appropriate, earnings and profits) to which such portion of foreign income tax relates.

(4) Covered person

The term “covered person” means, with respect to any person who pays or accrues a foreign income tax (hereafter in this paragraph referred to as the “payor”)—

(A) any entity in which the payor holds, directly or indirectly, at least a 10 percent ownership interest (determined by vote or value),

(B) any person which holds, directly or indirectly, at least a 10 percent ownership interest (determined by vote or value) in the payor,

(C) any person which bears a relationship to the payor described in section 267(b) or 707(b), and

(D) any other person specified by the Secretary for purposes of this paragraph.

(e) Regulations

The Secretary may issue such regulations or other guidance as is necessary or appropriate to