

“(c) EFFECTIVE DATE.—The amendment made by this section shall apply to dividends received after December 31, 1986.”

[§ 955. Repealed. Pub. L. 115–97, title I, § 14212(a), Dec. 22, 2017, 131 Stat. 2217]

Section, added Pub. L. 94–12, title VI, § 602(d)(3)(A), Mar. 29, 1975, 89 Stat. 62; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 99–514, title XII, § 1221(c)(3)(B), (C), Oct. 22, 1986, 100 Stat. 2553; Pub. L. 100–647, title I, § 1012(i)(11), Nov. 10, 1988, 102 Stat. 3509, related to withdrawal of previously excluded subpart F income from qualified investment.

A prior section 955, added Pub. L. 87–834, § 12(a), Oct. 16, 1962, 76 Stat. 1013, related to investments in less developed countries and dealing with less developed country corporations, prior to repeal by Pub. L. 94–12, title VI, § 602(c)(5), Mar. 29, 1975, 89 Stat. 59.

EFFECTIVE DATE OF REPEAL

Repeal 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 14212(c) of Pub. L. 115–97, set out as an Effective Date of 2017 Amendment note under section 851 of this title.

§ 956. Investment of earnings in United States property

(a) General rule

In the case of any controlled foreign corporation, the amount determined under this section with respect to any United States shareholder for any taxable year is the lesser of—

(1) the excess (if any) of—

(A) such shareholder’s pro rata share of the average of the amounts of United States property held (directly or indirectly) by the controlled foreign corporation as of the close of each quarter of such taxable year, over

(B) the amount of earnings and profits described in section 959(c)(1)(A) with respect to such shareholder, or

(2) such shareholder’s pro rata share of the applicable earnings of such controlled foreign corporation.

The amount taken into account under paragraph (1) with respect to any property shall be its adjusted basis as determined for purposes of computing earnings and profits, reduced by any liability to which the property is subject.

(b) Special rules

(1) Applicable earnings

For purposes of this section, the term “applicable earnings” means, with respect to any controlled foreign corporation, the sum of—

(A) the amount (not including a deficit) referred to in section 316(a)(1) to the extent such amount was accumulated in prior taxable years, and

(B) the amount referred to in section 316(a)(2),

but reduced by distributions made during the taxable year and by earnings and profits described in section 959(c)(1).

(2) Special rule for U.S. property acquired before corporation is a controlled foreign corporation

In applying subsection (a) to any taxable year, there shall be disregarded any item of

United States property which was acquired by the controlled foreign corporation before the first day on which such corporation was treated as a controlled foreign corporation. The aggregate amount of property disregarded under the preceding sentence shall not exceed the portion of the applicable earnings of such controlled foreign corporation which were accumulated during periods before such first day.

(3) Special rule where corporation ceases to be controlled foreign corporation

If any foreign corporation ceases to be a controlled foreign corporation during any taxable year—

(A) the determination of any United States shareholder’s pro rata share shall be made on the basis of stock owned (within the meaning of section 958(a)) by such shareholder on the last day during the taxable year on which the foreign corporation is a controlled foreign corporation,

(B) the average referred to in subsection (a)(1)(A) for such taxable year shall be determined by only taking into account quarters ending on or before such last day, and

(C) in determining applicable earnings, the amount taken into account by reason of being described in paragraph (2) of section 316(a) shall be the portion of the amount so described which is allocable (on a pro rata basis) to the part of such year during which the corporation is a controlled foreign corporation.

(c) United States property defined

(1) In general

For purposes of subsection (a), the term “United States property” means any property acquired after December 31, 1962, which is—

(A) tangible property located in the United States;

(B) stock of a domestic corporation;

(C) an obligation of a United States person; or

(D) any right to the use in the United States of—

(i) a patent or copyright,

(ii) an invention, model, or design (whether or not patented),

(iii) a secret formula or process, or

(iv) any other similar right,

which is acquired or developed by the controlled foreign corporation for use in the United States.

(2) Exceptions

For purposes of subsection (a), the term “United States property” does not include—

(A) obligations of the United States, money, or deposits with—

(i) any bank (as defined by section 2(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)), without regard to subparagraphs (C) and (G) of paragraph (2) of such section), or

(ii) any corporation not described in clause (i) with respect to which a bank holding company (as defined by section 2(a) of such Act) or financial holding company (as defined by section 2(p) of such