

poration of which more than 50 percent of the total combined voting power of all classes of stock entitled to vote is owned (within the meaning of section 958(a)), or is considered as owned by applying the rules of ownership of section 958(b), by United States shareholders on any day during the taxable year of such foreign corporation.”

Subsec. (b). Pub. L. 99-514, §1222(a)(2), inserted “(or more than 25 percent of the total value of stock)”.

Pub. L. 99-514, §1221(b)(3)(C), substituted “insurance income” for “income derived from insurance of United States risks”.

Subsec. (c). Pub. L. 99-514, §1273(a), added par. (2) and concluding provisions and struck out former pars. (2) and (3) which read as follows:

“(2) with respect to a corporation organized under the laws of the Virgin Islands, such term does not include an individual who is a bona fide resident of the Virgin Islands and whose income tax obligation under this subtitle for the taxable year is satisfied pursuant to section 28(a) of the Revised Organic Act of the Virgin Islands, approved July 22, 1954 (48 U.S.C. 1642), by paying tax on income derived from all sources both within and outside the Virgin Islands into the treasury of the Virgin Islands, and

“(3) with respect to a corporation organized under the laws of any other possession of the United States, such term does not include an individual who is a bona fide resident of any such other possession and whose income derived from sources within possessions of the United States is not, by reason of section 931(a), includible in gross income under this subtitle for the taxable year.”

Pub. L. 99-514, §1224(a), redesignated subsec. (d) as (c) and struck out former subsec. (c) which provided circumstances under which for purposes of this subpart, the term “controlled foreign corporation” would not include certain corporations created or organized in Puerto Rico or a possession of the United States or under the laws of Puerto Rico or a possession of the United States.

Subsec. (d). Pub. L. 99-514, §1224(a), redesignated subsec. (d) as (c).

1976—Subsec. (c) Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-97 applicable to distributions made after Dec. 31, 2017, see section 14101(f) of Pub. L. 115-97, set out as an Effective Date note under section 245A of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to taxable years ending after Oct. 22, 2004, see section 908(d)(1) of Pub. L. 108-357, set out as an Effective Date note under section 937 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1221(b)(3)(C) of Pub. L. 99-514 applicable to taxable years of foreign corporations beginning after Dec. 31, 1986, except as otherwise provided, see section 1221(g) of Pub. L. 99-514, set out as a note under section 954 of this title.

Pub. L. 99-514, title XII, §1222(c), Oct. 22, 1986, 100 Stat. 2557, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section and section 552 of this title] shall apply to taxable years of foreign corporations beginning after December 31, 1986; except that for purposes of applying sections 951(a)(1)(B) and 956 of the Internal Revenue Code of 1986, such amendments shall take effect on August 16, 1986.

“(2) TRANSITIONAL RULE.—In the case of any corporation treated as a controlled foreign corporation by reason of the amendments made by this section, property acquired before August 16, 1986, shall not be taken into account under section 956(b) of the Internal Revenue Code of 1986.

“(3) SPECIAL RULE FOR BENEFICIARY OF TRUST.—In the case of an individual—

“(A) who is a beneficiary of a trust which was established on December 7, 1979, under the laws of a foreign jurisdiction, and

“(B) who was not a citizen or resident of the United States on the date the trust was established, amounts which are included in the gross income of such beneficiary under section 951(a) of the Internal Revenue Code of 1986 with respect to stock held by the trust (and treated as distributed to the trust) shall be treated as the first amounts which are distributed by the trust to such beneficiary and as amounts to which section 959(a) of such Code applies.”

Pub. L. 99-514, title XII, §1224(b), Oct. 22, 1986, 100 Stat. 2558, provided that:

“(1) IN GENERAL.—The amendment made by subsection (a) [amending this section] shall apply to taxable years of foreign corporations beginning after December 31, 1986; except that for purposes of applying sections 951(a)(1)(B) and 956 of the Internal Revenue Code of 1986, such amendments shall take effect on August 16, 1986.

“(2) TRANSITIONAL RULE.—In the case of any corporation treated as a controlled foreign corporation by reason of the amendment made by subsection (a), property acquired before August 16, 1986, shall not be taken into account under section 956(b) of the Internal Revenue Code of 1986.”

Amendment by section 1273(a) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, with certain exceptions and qualifications, see section 1277 of Pub. L. 99-514, set out as a note under section 931 of this title.

§ 958. Rules for determining stock ownership

(a) Direct and indirect ownership

(1) General rule

For purposes of this subpart (other than section 960), stock owned means—

(A) stock owned directly, and

(B) stock owned with the application of paragraph (2).

(2) Stock ownership through foreign entities

For purposes of subparagraph (B) of paragraph (1), stock owned, directly or indirectly, by or for a foreign corporation, foreign partnership, or foreign trust or foreign estate (within the meaning of section 7701(a)(31)) shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person.

(3) Special rule for mutual insurance companies

For purposes of applying paragraph (1) in the case of a foreign mutual insurance company, the term “stock” shall include any certificate entitling the holder to voting power in the corporation.

(b) Constructive ownership

For purposes of sections 951(b), 954(d)(3), 956(c)(2), and 957, section 318(a) (relating to constructive ownership of stock) shall apply to the extent that the effect is to treat any United States person as a United States shareholder within the meaning of section 951(b), to treat a person as a related person within the meaning of section 954(d)(3), to treat the stock of a domestic corporation as owned by a United States shareholder of the controlled foreign corporation for

purposes of section 956(c)(2), or to treat a foreign corporation as a controlled foreign corporation under section 957, except that—

(1) In applying paragraph (1)(A) of section 318(a), stock owned by a nonresident alien individual (other than a foreign trust or foreign estate) shall not be considered as owned by a citizen or by a resident alien individual.

(2) In applying subparagraphs (A), (B), and (C) of section 318(a)(2), if a partnership, estate, trust, or corporation owns, directly or indirectly, more than 50 percent of the total combined voting power of all classes of stock entitled to vote of a corporation, it shall be considered as owning all the stock entitled to vote.

(3) In applying subparagraph (C) of section 318(a)(2), the phrase “10 percent” shall be substituted for the phrase “50 percent” used in subparagraph (C).

Paragraph (1) shall not apply for purposes of section 956(c)(2) to treat stock of a domestic corporation as not owned by a United States shareholder.

(Added Pub. L. 87-834, §12(a), Oct. 16, 1962, 76 Stat. 1018; amended Pub. L. 88-554, §4(b)(5), Aug. 31, 1964, 78 Stat. 763; Pub. L. 94-455, title X, §1021(b), Oct. 4, 1976, 90 Stat. 1619; Pub. L. 104-188, title I, §§1703(i)(4), 1704(t)(7), Aug. 20, 1996, 110 Stat. 1876, 1887; Pub. L. 115-97, title I, §§14213(a), 14301(c)(31), Dec. 22, 2017, 131 Stat. 2217, 2224.)

AMENDMENTS

2017—Subsec. (a)(1). Pub. L. 115-97, §14301(c)(31), substituted “960” for “960(a)(1)” in introductory provisions.

Subsec. (b). Pub. L. 115-97, §14213(a)(2), substituted “Paragraph (1)” for “Paragraphs (1) and (4)” in concluding provisions.

Subsec. (b)(4). Pub. L. 115-97, §14213(a)(1), struck out par. (4) which read as follows: “Subparagraphs (A), (B), and (C) of section 318(a)(3) shall not be applied so as to consider a United States person as owning stock which is owned by a person who is not a United States person.”

1996—Subsec. (a)(1). Pub. L. 104-188, §1704(t)(7), substituted “section 960(a)(1)” for “sections 955(b)(1)(A) and (B), 955(c)(2)(A)(ii), and 960(a)(1)” in introductory provisions.

Subsec. (b). Pub. L. 104-188, §1703(i)(4), substituted “956(c)(2)” for “956(b)(2)” wherever appearing in introductory and closing provisions.

1976—Subsec. (b). Pub. L. 94-455 inserted “956(b)(2)” after “purposes of sections 951(b), 954(d)(3),”, “to treat the stock of a domestic corporation as owned by a United States shareholder of the controlled foreign corporation for purposes of section 956(b)(2)” after “meaning of section 954(d)(3)” and “Paragraphs (1) and (4) shall not apply for purposes of section 956(b)(2) to treat stock of a domestic corporation as not owned by a United States shareholder” following subpar. (4).

1964—Subsec. (b). Pub. L. 88-554 redesignated pars. (4) and (5) as (3) and (4), respectively, struck out former par. (3) which related to ownership of stock by a partnership, estate, trust, or corporation for purposes of applying first sentence of subpars. (A) and (B), and subpar. (C)(i) of section 318(a)(2) of this title, and made amendments throughout subsec. (b) to conform to changes made in section 318 of this title by Pub. L. 88-554.

EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-97, title I, §14213(b), Dec. 22, 2017, 131 Stat. 2217, provided that: “The amendments made by this section [amending this section] shall apply to—

“(1) the last taxable year of foreign corporations beginning before January 1, 2018, and each subsequent taxable year of such foreign corporations, and

“(2) taxable years of United States shareholders in which or with which such taxable years of foreign corporations end.”

Amendment by section 14301(c)(31) 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 1996 AMENDMENT

Amendment by section 1703(i)(4) of Pub. L. 104-188 effective as if included in the provision of the Revenue Reconciliation Act of 1993, Pub. L. 103-66, §§13001-13444, to which such amendment relates, see section 1703(o) of Pub. L. 104-188, set out as a note under section 39 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 applicable to taxable years of foreign corporations beginning after Dec. 31, 1975, and to taxable years of United States shareholders within which or with which such taxable years of such corporations end, see section 1021(c) of Pub. L. 94-455, set out as a note under section 956 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-554 effective Aug. 31, 1964, except that for purposes of sections 302 and 304 of this title, such amendments shall not apply to distributions in payment for stock acquisitions or redemptions, if such acquisitions or redemptions occurred before Aug. 31, 1964, see section 4(c) of Pub. L. 88-554, set out as a note under section 318 of this title.

§ 959. Exclusion from gross income of previously taxed earnings and profits

(a) Exclusion from gross income of United States persons

For purposes of this chapter, the earnings and profits of a foreign corporation attributable to amounts which are, or have been, included in the gross income of a United States shareholder under section 951(a) shall not, when—

(1) such amounts are distributed to, or

(2) such amounts would, but for this subsection, be included under section 951(a)(1)(B) in the gross income of,

such shareholder (or any other United States person who acquires from any person any portion of the interest of such United States shareholder in such foreign corporation, but only to the extent of such portion, and subject to such proof of the identity of such interest as the Secretary may by regulations prescribe) directly or indirectly through a chain of ownership described under section 958(a), be again included in the gross income of such United States shareholder (or of such other United States person). The rules of subsection (c) shall apply for purposes of paragraph (1) of this subsection and the rules of subsection (f) shall apply for purposes of paragraph (2) of this subsection.

(b) Exclusion from gross income of certain foreign subsidiaries

For purposes of section 951(a), the earnings and profits of a controlled foreign corporation attributable to amounts which are, or have been, included in the gross income of a United