

attributable to movements in exchange rates between the times of deemed and actual distribution shall be recognized and treated as ordinary income or loss from the same source as the associated income inclusion.

**(2) Distributions through tiers**

The Secretary shall prescribe regulations with respect to the treatment of distributions of previously taxed earnings and profits through tiers of foreign corporations.

(Added Pub. L. 99-514, title XII, §1261(a), Oct. 22, 1986, 100 Stat. 2586; amended Pub. L. 100-647, title I, §1012(v)(1)(A), Nov. 10, 1988, 102 Stat. 3528; Pub. L. 105-34, title XI, §1102(a)(1), (b)(1), Aug. 5, 1997, 111 Stat. 963, 965; Pub. L. 108-357, title IV, §408(a), (b), Oct. 22, 2004, 118 Stat. 1499.)

AMENDMENTS

2004—Subsec. (a)(1)(D). Pub. L. 108-357, §408(a), added subpar. (D). Former subpar. (D) redesignated (E).

Subsec. (a)(1)(E). Pub. L. 108-357, §408(b)(1), added subpar. (E). Former subpar. (E) redesignated (F).

Pub. L. 108-357, §408(a), redesignated subpar. (D) as (E).

Subsec. (a)(1)(F). Pub. L. 108-357, §408(b)(1), redesignated subpar. (E) as (F).

Subsec. (a)(2). Pub. L. 108-357, §408(b)(2), inserted “or (E)” after “subparagraph (A)” in introductory provisions.

1997—Subsec. (a). Pub. L. 105-34, §1102(a)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows:

“(a) FOREIGN TAXES.—

“(1) IN GENERAL.—For purposes of determining the amount of the foreign tax credit—

“(A) any foreign income taxes shall be translated into dollars using the exchange rates as of the time such taxes were paid to the foreign country or possession of the United States, and

“(B) any adjustment to the amount of foreign income taxes shall be translated into dollars using—

“(i) except as provided in clause (ii), the exchange rate as of the time when such adjustment is paid to the foreign country or possession, or

“(ii) in the case of any refund or credit of foreign income taxes, using the exchange rate as of the time of original payment of such foreign income taxes.

“(2) FOREIGN INCOME TAXES.—For purposes of paragraph (1), ‘foreign income taxes’ means any income, war profits, or excess profits taxes paid to any foreign country or to any possession of the United States.”

Subsec. (a)(3), (4). Pub. L. 105-34, §1102(b)(1), added par. (3) and redesignated former par. (3) as (4).

1988—Pub. L. 100-647 substituted “foreign taxes and foreign corporation’s earnings and profits” for “foreign corporation’s earnings and profits and foreign taxes” in heading, and revised and restructured the provisions of subsecs. (a) and (b).

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-357, title IV, §408(c), Oct. 22, 2004, 118 Stat. 1500, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 2004.”

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title XI, §1102(c)(1), Aug. 5, 1997, 111 Stat. 966, provided that: “The amendments made by subsections (a)(1) and (b) [amending this section and section 989 of this title] shall apply to taxes paid or accrued in taxable years beginning after December 31, 1997.”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by 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

Section applicable to taxable years beginning after Dec. 31, 1986, with certain exceptions and qualifications, see section 1261(e) of Pub. L. 99-514, set out as a note under section 985 of this title.

**§ 987. Branch transactions**

In the case of any taxpayer having 1 or more qualified business units with a functional currency other than the dollar, taxable income of such taxpayer shall be determined—

(1) by computing the taxable income or loss separately for each such unit in its functional currency,

(2) by translating the income or loss separately computed under paragraph (1) at the appropriate exchange rate, and

(3) by making proper adjustments (as prescribed by the Secretary) for transfers of property between qualified business units of the taxpayer having different functional currencies, including—

(A) treating post-1986 remittances from each such unit as made on a pro rata basis out of post-1986 accumulated earnings, and

(B) treating gain or loss determined under this paragraph as ordinary income or loss, respectively, and sourcing such gain or loss by reference to the source of the income giving rise to post-1986 accumulated earnings.

(Added Pub. L. 99-514, title XII, §1261(a), Oct. 22, 1986, 100 Stat. 2586; amended Pub. L. 100-647, title I, §1012(v)(1)(B), Nov. 10, 1988, 102 Stat. 3528.)

AMENDMENTS

1988—Par. (4). Pub. L. 100-647 struck out par. (4) which provided for translation of foreign income taxes paid by each qualified business unit of the taxpayer in the same manner as provided under section 986(b).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by 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

Section applicable to taxable years beginning after Dec. 31, 1986, with certain exceptions and qualifications, see section 1261(e) of Pub. L. 99-514, set out as a note under section 985 of this title.

**§ 988. Treatment of certain foreign currency transactions**

**(a) General rule**

Notwithstanding any other provision of this chapter—

**(1) Treatment as ordinary income or loss**

**(A) In general**

Except as otherwise provided in this section, any foreign currency gain or loss attributable to a section 988 transaction shall be computed separately and treated as ordinary income or loss (as the case may be).

**(B) Special rule for forward contracts, etc.**

Except as provided in regulations, a taxpayer may elect to treat any foreign cur-