

tion 884 of the 1986 Code, the earnings and profits of any corporation shall be determined without regard to any increase in earnings and profits under sections 1023(e)(3)(C) [section 1023(e)(3)(C) of Pub. L. 99-514, set out as an Effective Date note under section 846 of this title] and 1021(c)(2)(C) of the Reform Act [Pub. L. 99-514, set out as an Effective Date of 1986 Amendment note under section 832 of this title] or arising from section 832(b)(4)(C) of the 1986 Code.”

APPLICABILITY OF CERTAIN AMENDMENTS BY PUB. L. 99-514 IN RELATION TO TREATY OBLIGATIONS OF UNITED STATES

For nonapplication of amendment by section 1241(a) of Pub. L. 99-514 (enacting this section) to the extent application of such amendment would be contrary to any treaty obligation of the United States in effect on Oct. 22, 1986, with provision that for such purposes any amendment by title I of Pub. L. 100-647 be treated as if it had been included in the provision of Pub. L. 99-514 to which such amendment relates, see section 1012(aa)(3), (4) of Pub. L. 100-647, set out as a note under section 861 of this title.

### § 885. Cross references

(1) For special provisions relating to foreign corporations carrying on an insurance business within the United States, see section 842.

(2) For rules applicable in determining whether any foreign corporation is engaged in trade or business within the United States, see section 864(b).

(3) For adjustment of tax in case of corporations of certain foreign countries, see section 896.

(4) For allowance of credit against the tax in case of a foreign corporation having income effectively connected with the conduct of a trade or business within the United States, see section 906.

(5) For withholding at source of tax on income of foreign corporations, see section 1442.

(Aug. 16, 1954, ch. 736, 68A Stat. 283, § 884; Pub. L. 89-809, title I, § 104(m)(1), Nov. 13, 1966, 80 Stat. 1563; Pub. L. 91-172, title I, § 101(j)(21), Dec. 30, 1969, 83 Stat. 528; renumbered § 885, Pub. L. 99-514, title XII, § 1241(a), Oct. 22, 1986, 100 Stat. 2576.)

### Editorial Notes

#### AMENDMENTS

1986—Pub. L. 99-514 renumbered section 884 of this title as this section.

1969—Pub. L. 91-172 redesignated pars. (2) to (6) as (1) to (5), respectively. Former par. (1), referring to section 512(a), was struck out.

1966—Par. (1). Pub. L. 89-809 redesignated par. (4) as (1). Former par. (1) redesignated (6).

Par. (2). Pub. L. 89-809 redesignated par. (3) as (2) and substituted “foreign corporations carrying on an insurance business within the United States, see section 842” for “foreign insurance companies, see subchapter L (sec. 801 and following)”. Former par. (2) redesignated (3).

Par. (3). Pub. L. 89-809 redesignated former par. (2) as (3) and, in par. (3) as so redesignated, substituted “section 864(b)” for “section 871(c)”. Former par. (3) redesignated (2).

Pars. (4), (5). Pub. L. 89-809 added pars. (4) and (5). Former par. (4) redesignated (1).

Par. (6). Pub. L. 89-809 redesignated former par. (1) as (6).

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable to taxable years beginning after Dec. 31, 1969, see section 101(k)(2)(B) of Pub. L. 91-172, set out as an Effective Date note under section 4940 of this title.

#### 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.

### SUBPART C—TAX ON GROSS TRANSPORTATION INCOME

Sec.

887.

Imposition of tax on gross transportation income of nonresident aliens and foreign corporations.

### § 887. Imposition of tax on gross transportation income of nonresident aliens and foreign corporations

#### (a) Imposition of tax

In the case of any nonresident alien individual or foreign corporation, there is hereby imposed for each taxable year a tax equal to 4 percent of such individual's or corporation's United States source gross transportation income for such taxable year.

#### (b) United States source gross transportation income

##### (1) In general

Except as provided in paragraphs (2) and (3), the term “United States source gross transportation income” means any gross income which is transportation income (as defined in section 863(c)(3)) to the extent such income is treated as from sources in the United States under section 863(c)(2). To the extent provided in regulations, such term does not include any income of a kind to which an exemption under paragraph (1) or (2) of section 883(a) would not apply.

##### (2) Exception for certain income effectively connected with business in the United States

The term “United States source gross transportation income” shall not include any income taxable under section 871(b) or 882.

##### (3) Exception for certain income taxable in possessions

The term “United States source gross transportation income” does not include any income taxable in a possession of the United States under the provisions of this title as made applicable in such possession.

##### (4) Determination of effectively connected income

For purposes of this chapter, United States source gross transportation income of any taxpayer shall not be treated as effectively connected with the conduct of a trade or business in the United States unless—

(A) the taxpayer has a fixed place of business in the United States involved in the earning of United States source gross transportation income, and

(B) substantially all of the United States source gross transportation income (determined without regard to paragraph (2)) of the taxpayer is attributable to regularly scheduled transportation (or, in the case of income from the leasing of a vessel or air-

craft, is attributable to a fixed place of business in the United States).

**(c) Coordination with other provisions**

Any income taxable under this section shall not be taxable under section 871, 881, or 882.

(Added Pub. L. 99-514, title XII, §1212(b)(1), Oct. 22, 1986, 100 Stat. 2537; amended Pub. L. 100-647, title I, §1012(e)(6), Nov. 10, 1988, 102 Stat. 3500; Pub. L. 101-239, title VII, §7811(i)(8)(A), (B), (9), Dec. 19, 1989, 103 Stat. 2410, 2411.)

**Editorial Notes**

AMENDMENTS

1989—Subsec. (b)(1). Pub. L. 101-239, §7811(i)(8)(B), substituted “paragraphs (2) and (3)” for “paragraph (2)”.

Subsec. (b)(3). Pub. L. 101-239, §7811(i)(8)(A), added par. (3). Former par. (3) redesignated (4).

Subsec. (b)(4). Pub. L. 101-239, §7811(i)(8)(A), (9), redesignated former par. (3) as (4) and substituted “United States source gross transportation income” for “transportation income” in introductory provisions and in subpar. (A).

1988—Subsec. (b)(1). Pub. L. 100-647 substituted “under section 863(c)(2)” for “under section 863(c)” and inserted at end “To the extent provided in regulations, such term does not include any income of a kind to which an exemption under paragraph (1) or (2) of section 883(a) would not apply.”

**Statutory Notes and Related Subsidiaries**

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

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, see section 1212(f) of Pub. L. 99-514, set out as an Effective Date of 1986 Amendment note under section 863 of this title.

APPLICABILITY OF CERTAIN AMENDMENTS BY PUB. L. 99-514 IN RELATION TO TREATY OBLIGATIONS OF UNITED STATES

For nonapplication of amendment by section 1212(b)(1) of Pub. L. 99-514 (enacting this section) to the extent application of such amendment would be contrary to any treaty obligation of the United States in effect on Oct. 22, 1986, with provision that for such purposes any amendment by title I of Pub. L. 100-647 be treated as if it had been included in the provision of Pub. L. 99-514 to which such amendment relates, see section 1012(aa)(3), (4) of Pub. L. 100-647, set out as a note under section 861 of this title.

**SUBPART D—MISCELLANEOUS PROVISIONS**

- Sec. 891. Doubling of rates of tax on citizens and corporations of certain foreign countries.
- 892. Income of foreign governments and of international organizations.
- 893. Compensation of employees of foreign governments or international organizations.

- Sec. 894. Income affected by treaty.
- 895. Income derived by a foreign central bank of issue from obligations of the United States or from bank deposits.
- 896. Adjustment of tax on nationals, residents, and corporations of certain foreign countries.
- 897. Disposition of investment in United States real property.
- 898. Taxable year of certain foreign corporations.

**Editorial Notes**

AMENDMENTS

1989—Pub. L. 101-239, title VII, §7401(c), Dec. 19, 1989, 103 Stat. 2357, added item 898.

1986—Pub. L. 99-514, title XII, §1212(b)(1), Oct. 22, 1986, 100 Stat. 2537, redesignated former subpart (C) as (D).

1980—Pub. L. 96-499, title XI, §1122(b), Dec. 5, 1980, 94 Stat. 2687, added item 897.

1966—Pub. L. 89-809, title I, §§102(a)(4)(B), 105(c), Nov. 13, 1966, 80 Stat. 1543, 1565, substituted “affected by treaty” for “exempt under treaty” in item 894, inserted “or from bank deposits” in item 895, and added item 896.

1961—Pub. L. 87-29, §1(b), May 4, 1961, 75 Stat. 64, added item 895.

**§ 891. Doubling of rates of tax on citizens and corporations of certain foreign countries**

Whenever the President finds that, under the laws of any foreign country, citizens or corporations of the United States are being subjected to discriminatory or extraterritorial taxes, the President shall so proclaim and the rates of tax imposed by sections 1, 3, 11, 801, 831, 852, 871, and 881 shall, for the taxable year during which such proclamation is made and for each taxable year thereafter, be doubled in the case of each citizen and corporation of such foreign country; but the tax at such doubled rate shall be considered as imposed by such sections as the case may be. In no case shall this section operate to increase the taxes imposed by such sections (computed without regard to this section) to an amount in excess of 80 percent of the taxable income of the taxpayer (computed without regard to the deductions allowable under section 151 and under part VIII of subchapter B). Whenever the President finds that the laws of any foreign country with respect to which the President has made a proclamation under the preceding provisions of this section have been modified so that discriminatory and extraterritorial taxes applicable to citizens and corporations of the United States have been removed, he shall so proclaim, and the provisions of this section providing for doubled rates of tax shall not apply to any citizen or corporation of such foreign country with respect to any taxable year beginning after such proclamation is made.

(Aug. 16, 1954, ch. 736, 68A Stat. 283; Mar. 13, 1956, ch. 83, §5(6), 70 Stat. 49; Pub. L. 86-69, §3(f)(1), June 25, 1959, 73 Stat. 140; Pub. L. 98-369, div. A, title II, §211(b)(12), July 18, 1984, 98 Stat. 755; Pub. L. 99-514, title X, §1024(c)(13), Oct. 22, 1986, 100 Stat. 2408.)

**Editorial Notes**

AMENDMENTS

1986—Pub. L. 99-514 struck out reference to section 821.