

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-