

shareholder's taxable year. In addition, shareholders may elect to apply these regulations to any taxable year beginning after December 31, 1997, for stock in a foreign corporation whose taxable year ends with or within the shareholder's taxable year.

[T.D. 8867, 65 FR 3819, Jan. 25, 2000. Redesignated and amended by T.D. 9123, 69 FR 24073, May 3, 2004]

§ 1.1297-0 Table of contents.

This section contains a listing of the headings for § 1.1297-3.

§ 1.1297-3 Deemed sale or deemed dividend election by a U.S. person that is a shareholder of a section 1297(e) PFIC.

- (a) In general.
- (b) Application of deemed sale election rules.
 - (1) Eligibility to make the deemed sale election.
 - (2) Effect of the deemed sale election.
 - (3) Time for making the deemed sale election.
 - (4) Manner of making the deemed sale election.
 - (5) Adjustments to basis.
 - (6) Treatment of holding period.
- (c) Application of deemed dividend election rules.
 - (1) Eligibility to make the deemed dividend election.
 - (2) Effect of the deemed dividend election.
 - (3) Post-1986 earnings and profits defined.
 - (4) Time for making the deemed dividend election.
 - (5) Manner of making the deemed dividend election.
 - (6) Adjustments to basis.
 - (7) Treatment of holding period.
 - (8) Coordination with section 959(e).
 - (d) CFC qualification date.
 - (e) Late purging elections requiring special consent.
 - (1) In general.
 - (2) Prejudice to the interests of the U.S. government.
 - (3) Procedural requirements.
 - (4) Time and manner of making late election.
 - (5) Multiple late elections.
 - (f) Effective/applicability date.

[T.D. 9360, 72 FR 54821, Sept. 27, 2007]

§ 1.1297-3 Deemed sale or deemed dividend election by a U.S. person that is a shareholder of a section 1297(e) PFIC.

(a) *In general.* A shareholder (as defined in § 1.1291-9(j)(3)) of a foreign corporation that is a section 1297(e) pas-

sive foreign investment company (PFIC) (as defined in § 1.1291-9(j)(2)(v)) with respect to such shareholder, shall be treated for tax purposes as holding stock in a PFIC and therefore continues to be subject to taxation under section 1291 unless the shareholder makes a purging election under section 1298(b)(1). A purging election under section 1298(b)(1) is made under rules similar to the rules of section 1291(d)(2). Section 1291(d)(2) allows a shareholder to purge the continuing PFIC taint by either making a deemed sale election or a deemed dividend election.

(b) *Application of deemed sale election rules—(1) Eligibility to make the deemed sale election.* A shareholder of a foreign corporation that is a section 1297(e) PFIC with respect to such shareholder may make a deemed sale election under section 1298(b)(1) by applying the rules of this paragraph (b).

(2) *Effect of the deemed sale election.* A shareholder making the deemed sale election with respect to a section 1297(e) PFIC shall be treated as having sold all of its stock in the section 1297(e) PFIC for its fair market value on the controlled foreign corporation (CFC) qualification date, as defined in paragraph (d) of this section. A deemed sale under this section is treated as a disposition subject to taxation under section 1291. Thus, the gain from the deemed sale is taxed as an excess distribution received on the CFC qualification date. In the case of an election made by an indirect shareholder, the amount of gain to be recognized and taxed as an excess distribution is the amount of gain that the direct owner of the stock of the PFIC would have realized on an actual sale or disposition of the stock of the PFIC indirectly owned by the shareholder. Any loss realized on the deemed sale is not recognized. After the deemed sale election, the shareholder's stock with respect to which the election was made under this paragraph (b) shall not be treated as stock in a PFIC and the shareholder shall not be subject to taxation under section 1291 with respect to such stock unless the qualified portion of the shareholder's holding period ends, as determined under section 1297(e)(2), and the foreign corporation thereafter