§ 1.1298–0 Table of contents.

This section contains a listing of the paragraph headings for § 1.1298–3.

§ 1.1298–3 Deemed sale or deemed dividend election by a U.S. person that is a shareholder of a former PFIC.

[T.D. 9360, 72 FR 54824, Sept. 27, 2007]

§ 1.1298–3 Deemed sale or deemed dividend election by a U.S. person that is a shareholder of a former PFIC.

(a) *In general.* A shareholder (as defined in § 1.1291–9(j)(3)) of a foreign corporation that is a former PFIC, (as defined in § 1.1291–9(j)(2)(iv)) 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 making either 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 former 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 deemed sale election.* A shareholder making the deemed sale election with respect to a former PFIC shall be treated as having sold all its stock in the former PFIC for its fair market value on the termination date, as defined in paragraph (d) of this section. A deemed sale is treated as a disposition subject to taxation under section 1291. Thus, gain from the deemed sale is taxed under section 1291 as an excess distribution received on the termination 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 foreign corporation thereafter qualifies as a PFIC under section 1297(a).

(3) *Time for making the deemed sale election.* Except as provided in paragraph (e) of this section, the shareholder shall make the deemed sale election under this paragraph (b) and section 1298(b)(1) in the shareholder's original or amended return for the taxable year that includes the termination date (election year). If the deemed sale election is made in an amended return, the return must be filed by a date that is within three years of the due date, as extended under section 6081, of the original return for the election year.

(4) *Manner of making the deemed sale election.* A shareholder makes the