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Sections 1.988–0 through 1.988–5 also issued under 26 U.S.C. 988.

Sections 1.989(a)–0T and 1.989(a)–1T also issued under 26 U.S.C. 989(c).

Section 1.989(b)–1 also issued under 26 U.S.C. 989(b).

Section 1.989–1(c) also issued under 26 U.S.C. 989(c).

SOURCE: T.D. 6500, 25 FR 11910, Nov. 26, 1960; 25 FR 14021, Dec. 31, 1960, unless otherwise noted.

EARNED INCOME OF CITIZENS OR RESIDENTS OF UNITED STATES

§ 1.908 [Reserved]

§ 1.909–0 Outline of regulation provisions for section 909.

This section lists the headings for §§ 1.909–1 through 1.909–6.

§ 1.909–1 Definitions and special rules.

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(d) Application of section 909 to pre-1987 accumulated profits and pre-1987 foreign income taxes.
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§ 1.909–3 Rules regarding related income and split taxes.

(a) Interim rules for identifying related income and split taxes.
(b) Split taxes on deductible disregarded payments.
(c) Effective/applicability date.

§ 1.909–4 Coordination rules.

(a) Interim rules.
(b) Effective/applicability date.

§ 1.909–5 2011 and 2012 splitter arrangements.

(a) Taxes paid or accrued in taxable years beginning in 2011.
(b) Taxes paid or accrued in certain taxable years beginning in 2012 with respect to a foreign consolidated group splitter arrangement.
(c) Effective/applicability date.

§ 1.909–6 Pre-2011 foreign tax credit splitting events.

(a) Foreign tax credit splitting event.
(1) In general.
(2) Taxes not subject to suspension under section 909.
(3) Taxes subject to suspension under section 909.
(b) Pre-2011 splitter arrangements.
(1) Reverse hybrid structure splitter arrangements.
(2) Foreign consolidated group splitter arrangements.
(3) Group relief or other loss-sharing regime splitter arrangements.
(i) In general.
(ii) Split taxes and related income.
(4) Hybrid instrument splitter arrangements.
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(ii) U.S. equity hybrid instrument splitter arrangement.
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(c) General rules for applying section 909 to pre-2011 split taxes and related income.
(1) Annual determination.
(2) Separate categories.
(d) Special rules regarding related income.
(1) Annual adjustments.
(2) Effect of separate limitation losses and deficits.
(3) Pro rata method for distributions out of earnings and profits that include both related income and other income.

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(5) Distributions, deemed distributions, and inclusions out of related income.
(6) Carryover of related income.
(7) Related income taken into account by a section 902 shareholder.
(8) Related income taken into account by a payor section 902 corporation.
(9) Related income taken into account by an affiliated group of corporations that includes a section 902 shareholder.
(10) Distributions of previously-taxed earnings and profits.
(e) Special rules regarding pre-2011 split taxes.
(1) Taxes deemed paid pro rata out of pre-2011 split taxes and other taxes.
(2) Pre-2011 split taxes deemed paid in pre-2011 taxable years.
(3) Carryover of pre-2011 split taxes.
(4) Determining when pre-2011 split taxes are no longer treated as pre-2011 split taxes.
(f) Rules relating to partnerships and trusts.
(1) Taxes paid or accrued by partnerships.
(2) Section 704(b) allocations.
(3) Trusts.
(g) Interaction between section 909 and other Code provisions.
(1) Section 904(c).
(2) Section 905(a).
(3) Section 905(c).
(4) Other foreign tax credit provisions.
(h) Effective/applicability date.

[T.D. 9710, 80 FR 7327, Feb. 10, 2015]

§ 1.909–1 Definitions and special rules.

(a) *Definitions.* For purposes of section 909, this section, and §§ 1.909–2 through 1.909–5, the following definitions apply:

(1) The term *section 902 corporation* means any foreign corporation with respect to which one or more domestic corporations meet the ownership requirements of section 902(a) or (b).

(2) The term *section 902 shareholder* means any domestic corporation that meets the ownership requirements of section 902(a) or (b) with respect to a section 902 corporation.

(3) The term *payor* means a person that pays or accrues a foreign income tax within the meaning of § 1.901–2(f), and also includes a person that takes foreign income taxes paid or accrued by a partnership, S corporation, estate or trust into account pursuant to section 702(a)(6), section 901(b)(5) or section 1373(a).

(4) The term *covered person* means, with respect to a payor—

(i) Any entity in which the payor holds, directly or indirectly, at least a 10 percent ownership interest (determined by vote or value);

(ii) Any person that holds, directly or indirectly, at least a 10 percent ownership interest (determined by vote or value) in the payor; or

(iii) Any person that bears a relationship that is described in section 267(b) or 707(b) to the payor.

(5) The term *foreign income tax* means any income, war profits, or excess profits tax paid or accrued to any foreign country or to any possession of the United States. A foreign income tax includes any tax paid or accrued in lieu of such a tax within the meaning of section 903.

(6) The term *post-1986 foreign income taxes* has the meaning provided in § 1.902–1(a)(8).

(7) The term *post-1986 undistributed earnings* has the meaning provided in § 1.902–1(a)(9).

(8) The term *disregarded entity* means an entity that is disregarded as an entity separate from its owner, as provided in § 301.7701–2(c)(2)(i) of this chapter.

(9) The term *hybrid partnership* means a partnership that is subject to income tax in a foreign country as a corporation (or otherwise at the entity level) on the basis of residence, place of incorporation, place of management or similar criteria.

(b) *Taxes paid or accrued by a partnership, S corporation or trust.* Under section 909(c)(1), section 909 applies at the partner level, and similar rules apply in the case of an S corporation or trust. Accordingly, in the case of foreign income taxes paid or accrued by a partnership, S corporation or trust, taxes allocated to one or more partners, shareholders or beneficiaries (as the case may be) will be treated as split taxes to the extent such taxes would be split taxes if the partner, shareholder or beneficiary had paid or accrued the taxes directly on the date such taxes are taken into account by the partner under sections 702 and 706(a), by the shareholder under section 1373(a), or by the beneficiary under section 901(b)(5). Any such split taxes will