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related income from a U.S. debt hybrid instrument splitter arrangement is the gross amount of the interest income recognized for U.S. Federal income tax purposes by the owner of the U.S. debt hybrid instrument, determined without regard to the actual amount of the owner's income or earnings and profits for U.S. Federal income tax purposes.

(D) *U.S. debt hybrid instrument.* The term *U.S. debt hybrid instrument* means an instrument that is treated as equity for foreign tax purposes but as indebtedness for U.S. Federal income tax purposes.

(4) *Partnership inter-branch payment splitter arrangements*—(i) *In general.* An allocation of foreign income tax paid or accrued by a partnership with respect to an inter-branch payment as described in §1.704–1(b)(4)(viii)(*d*)(*3*) (revised as of April 1, 2011) (the *inter-branch payment tax*) is a splitter arrangement to the extent the inter-branch payment tax is not allocated to the partners in the same proportion as the distributive shares of income in the CFTE category to which the inter-branch payment tax is or would be assigned under §1.704–1(b)(4)(viii)(*d*) without regard to §1.704–1(b)(4)(viii)(*d*)(*3*).

(ii) *Split taxes from a partnership inter-branch payment splitter arrangement.* The split taxes from a partnership inter-branch splitter arrangement equal the excess of the amount of the inter-branch payment tax allocated to a partner under the partnership agreement over the amount of the inter-branch payment tax that would have been allocated to the partner if the inter-branch payment tax had been allocated to the partners in the same proportion as the distributive shares of income in the CFTE category referred to in paragraph (b)(4)(i) of this section.

(iii) *Related income from a partnership inter-branch payment splitter arrangement.* The related income from a partnership inter-branch payment splitter arrangement equals the amount of income allocated to a partner that exceeds the amount of income that would have been allocated to the partner if income in the CFTE category referred to in paragraph (b)(4)(i) of this section in the amount of the inter-branch payment had been allocated to the partners in the same proportion as the inter-branch payment tax was allocated under the partnership agreement.

(c) *Effective/applicability date.* This section applies to foreign income taxes paid or accrued in taxable years ending after February 9, 2015. However, a taxpayer may choose to apply the provisions of §1.909–2T (as contained in 26 CFR part 1, revised as of April 1, 2014) in lieu of this section to foreign income taxes paid or accrued in its first taxable year ending after February 9, 2015, and in taxable years of foreign corporations with respect to which the taxpayer is a domestic shareholder (as defined in §1.902–1(a)) that end with or within that first taxable year. See 26 CFR 1.909–2T (revised as of April 1, 2014) for rules applicable to foreign income taxes paid or accrued in taxable years beginning on or after January 1, 2012, and ending on or before February 9, 2015.

[T.D. 9710, 80 FR 7328, Feb. 10, 2015]

§1.909–3 Rules regarding related income and split taxes.

(a) *Interim rules for identifying related income and split taxes.* The principles of paragraphs (d) through (f) of §1.909–6 apply to related income and split taxes in taxable years beginning on or after January 1, 2011, except that the alternative method for identifying distributions of related income described in §1.909–6(d)(4) applies only to identify the amount of pre-2011 split taxes of a section 902 corporation that are suspended as of the first day of the section 902 corporation's first taxable year beginning on or after January 1, 2011.

(b) *Split taxes on deductible disregarded payments.* Split taxes include taxes paid or accrued in taxable years beginning on or after January 1, 2011, with respect to the amount of a disregarded payment that is deductible by the payor of the disregarded payment under the laws of a foreign jurisdiction in which the payor of the disregarded payment is subject to tax on related income from a splitter arrangement. The amount of the deductible disregarded payment to which this paragraph (b) applies is limited to the amount of related income from such splitter arrangement.

(c) *Effective/applicability date.* This section applies to taxable years ending

after February 9, 2015. See 26 CFR 1.909–3T (revised as of April 1, 2014) for rules applicable to taxable years beginning on or after January 1, 2011, and ending on or before February 9, 2015.

[T.D. 9710, 80 FR 7332, Feb. 10, 2015]

§ 1.909–4 Coordination rules.

(a) *Interim rules.* The principles of paragraph (g) of §1.909–6 apply to taxable years beginning on or after January 1, 2011.

(b) *Effective/applicability date.* This section applies to taxable years ending after February 9, 2015. See 26 CFR 1.909–4T (revised as of April 1, 2014) for rules applicable to taxable years beginning on or after January 1, 2011, and ending on or before February 9, 2015.

[T.D. 9710, 80 FR 7332, Feb. 10, 2015]

§ 1.909–5 2011 and 2012 splitter arrangements.

(a) *Taxes paid or accrued in taxable years beginning in 2011.* (1) Foreign income taxes paid or accrued by any person in a taxable year beginning on or after January 1, 2011, and before January 1, 2012, in connection with a pre-2011 splitter arrangement (as defined in §1.909–6(b)), are split taxes to the same extent that such taxes would have been treated as pre-2011 split taxes if such taxes were paid or accrued by a section 902 corporation in a taxable year beginning on or before December 31, 2010. The related income with respect to split taxes from such an arrangement is the related income described in §1.909–6(b), determined as if the payor were a section 902 corporation.

(2) Foreign income taxes paid or accrued by any person in a taxable year beginning on or after January 1, 2011, and before January 1, 2012, in connection with a partnership inter-branch payment splitter arrangement described in §1.909–2(b)(4) are split taxes to the extent that such taxes are identified as split taxes in §1.909–2(b)(4)(ii). The related income with respect to the split taxes is the related income described in §1.909–2(b)(4)(iii).

(b) *Taxes paid or accrued in certain taxable years beginning in 2012 with respect to a foreign consolidated group splitter arrangement.* Foreign income taxes paid or accrued by any person in a taxable year beginning on or after January 1, 2012, and on or before February 14, 2012, in connection with a foreign consolidated group splitter arrangement described in §1.909–6(b)(2) are split taxes to the same extent that such taxes would have been treated as pre-2011 split taxes if such taxes were paid or accrued by a section 902 corporation in a taxable year beginning on or before December 31, 2010. The related income with respect to split taxes from such an arrangement is the related income described in §1.909–6(b)(2), determined as if the payor were a section 902 corporation.

(c) *Effective/applicability date.* The rules of this section apply to foreign income taxes paid or accrued in taxable years beginning on or after January 1, 2011, and on or before February 14, 2012.

[T.D. 9710, 80 FR 7332, Feb. 10, 2015]

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

(a) *Foreign tax credit splitting event—*(1) *In general.* This section provides rules for determining whether foreign income taxes paid or accrued by a section 902 corporation (as defined in section 909(d)(5)) in taxable years beginning on or before December 31, 2010 (*pre-2011 taxable years* and *pre-2011 taxes*) are suspended under section 909 in taxable years beginning after December 31, 2010, (*post-2010 taxable years*) of a section 902 corporation. Paragraph (b) of this section identifies an exclusive list of arrangements that will be treated as giving rise to foreign tax credit splitting events in pre-2011 taxable years (*pre- 2011 splitter arrangements*). Paragraphs (c), (d), and (e) of this section provide rules for determining the related income and pre-2011 split taxes paid or accrued with respect to pre-2011 splitter arrangements. Paragraph (f) of this section provides rules concerning the application of section 909 to partnerships and trusts. Paragraph (g) of this section provides rules concerning the interaction between section 909 and other Internal Revenue Code (*Code*) provisions.

(2) *Taxes not subject to suspension under section 909.* Pre-2011 taxes that will not be suspended under section 909 or paragraph (a) of this section are: