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§ 1.954–5 Increase in qualified investments in less developed countries; taxable years of controlled foreign corporations beginning before January 1, 1976.

For rules applicable to taxable years of controlled foreign corporations beginning before January 1, 1976, see section 954(b)(1) (as in effect before the enactment of the Tax Reduction Act of 1975) and 26 CFR 1.954–5 (Revised as of April 1, 1975).

[T.D. 7893, 48 FR 22508, May 19, 1983]

§ 1.954–6 Foreign base company shipping income.

(a) *Scope*—(1) *In general.* This section prescribes rules for determining foreign base company shipping income under the provisions of section 954(f), as amended by the Tax Reduction Act of 1975.

(2) *Effective date.* (i) The rules prescribed in this section apply to taxable years of foreign corporations beginning after December 31, 1975, and to taxable years of United States shareholders (as defined in section 951 (b)) within which or with which such taxable years of such foreign corporations end.

(ii) Except as described in paragraph (b)(1)(viii) of this section, foreign base company shipping income does not include amounts earned by a foreign corporation in a taxable year of such corporation beginning before January 1, 1976. See example 1 of paragraph (g)(2) of this section for an illustration of the effect of this subparagraph on partnership income. See example 3 of paragraph (f)(4)(ii) of this section for an illustration of the effect of this subparagraph on certain dividend income. See paragraph (f)(5)(iii) of this section for the effect of this subparagraph on certain interest and gains.

(b) *Definitions*—(1) *Foreign base company shipping income.* The term ''foreign base company shipping income'' means—

(i) Gross income derived from, or in connection with, the use (or hiring or leasing for use) of any aircraft or vessel in foreign commerce (see paragraph (c) of this section),

(ii) Gross income derived from, or in connection with, the performance of services directly related to the use of any aircraft or vessel in foreign commerce (see paragraph (d) of this section),

(iii) Gross income incidental to income described in subdivisions (i) and (ii) of this subparagraph, as provided in paragraph (e) of this section,

(iv) Gross income derived from the sale, exchange, or other disposition of any aircraft or vessel used or held for use (by the seller or by a person related to the seller) in foreign commerce,

(v) In the case of a controlled foreign corporation, dividends, interest, and gains described in paragraph (f) of this section,

(vi) Income described in paragraph (g) of this section (relating to partnerships, trusts, etc.),

(vii) Exchange gain, to the extent allocable to foreign base company shipping income (see §1.952–2(c)(2)(v)(*b*), and

(viii) In the case of a controlled foreign corporation and at its option, dividends, interest, and gains attributable to income derived from aircraft and vessels (as defined in 26 CFR 1.954–1(b)(2) (Revised as of April 1, 1975)) by a less developed country shipping company (described in §1.955–5(b)) in taxable years beginning after December 31, 1962, and before January 1, 1976. The portion of a dividend, interest, or gain attributable to such income shall be determined by the same method as that for determining the portion of a dividend, interest, or gain attributable to foreign base company shipping income under paragraphs (f)(4), (5), and (6) of this section, but without regard to paragraphs (f)(6)(ii) and (iv)(B).

(2) *Foreign base company shipping operations.* For purposes of sections 951 through 964, the term ''foreign base company shipping operations'' means the trade or business from which gross income described in subparagraph (1)(i) and (ii) of this paragraph is derived.

(3) *Foreign commerce.* For purposes of sections 951 through 964—

(i) An aircraft or vessel is used in foreign commerce to the extent it is used in transportation of property or passengers—

(A) Between a port (or airport) in the United States or possession of the United States and a port (or airport) in a foreign country, or