AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

(2) *Year of receipt.* Any deficiency distribution made with respect to a taxable year of the United States shareholder shall be treated, except as provided in paragraph (b)(2) of this section, as having been received by the shareholder in that year for which such shareholder elected to secure an exclusion under section 963; and, for purposes of the foreign tax credit under section 901, the foreign income taxes paid or accrued, or deemed paid, by the United States shareholder by reason of a distribution of any amount treated as a deficiency distribution for such year shall be treated as paid or accrued, or deemed paid, for such year.

(3) *Year of payment.* A distribution counting toward a deficiency distribution for a taxable year of election shall, except as provided in paragraph (b)(2) of this section, be treated for purposes of applying paragraph (a) of §1.963–3, relating to conditions under which earnings and profits are counted toward a minimum distribution, and paragraph (b)(3) of §1.963–4, relating to rules for distributing through a chain or group, as if it were distributed during the distribution period (as defined in paragraph (g) of §1.963–3) with respect to the distributing corporation and each foreign corporation through which such distribution is made to the United States shareholder, for the taxable year to which the election under section 963 applies; and the foreign income taxes paid by any foreign corporation by reason of such distribution shall, in the application of section 902 and of the special rules of paragraph (c) of §1.963–4, be treated as paid or accrued by such foreign corporation for its taxable year to which such election applies. The distribution shall not count toward a minimum distribution for any other taxable year.

(4) *Allocation of reduction in tax credit.* If any portion of a deficiency distribution from a corporation which was in a chain or group is paid from earnings and profits of a taxable year other than that in respect of which the election was made, then the minimum distribution toward which such deficiency distribution counts may not be treated as a pro rata minimum distribution for purposes of §1.963–4. Moreover, the amount of the overall United States and foreign income tax with respect to such minimum distribution must satisfy the minimum tax requirements of paragraph (a)(1)(i), or paragraph (ii), of §1.963–4, but, if the latter applies, without any reduction and deferral under paragraph (c)(3) of such section of the foreign tax credit allowable under section 901 with respect to the deficiency distribution.

[T.D. 6759, 29 FR 13346, Sept. 25, 1964, as amended by T.D. 6767, 29 FR 14879, Nov. 3, 1964; T.D. 7410, 41 FR 11020, Mar. 16, 1976; T.D. 8939, 66 FR 2819, Jan. 12, 2001]

§ 1.963–7 Transitional rules for certain taxable years.

(a) *Extension of time for making, revoking, or changing election*—(1) *In general.* Subparagraphs (2) and (3) of this paragraph provide additional rules which apply only to a taxable year of a United States shareholder for which the last day prescribed by law for filing its return (including any extensions of time under section 6081) occurs on or before the 90th day after September 30, 1964.

(2) *Manner of making the election.* The election of the United States shareholder to secure the exclusion under section 963 and the consent to the regulations under such section may be made for the taxable year—

(i) By filing with the return (or with an amended return filed on or before such 90th day) for such taxable year—

(*a*) A written statement stating that such election is made for such taxable year, and

(*b*) The names of the foreign corporations to which such election applies, the taxable year, country of incorporation, pretax earnings and profits, foreign income taxes, earnings and profits, and outstanding capital stock, of each such corporation, and such other information relating to the election made as the Commissioner may prescribe, on or before the date of filing, by instructions or schedules to support such return; or

(ii) In case of any extension of time under section 6081 with respect to such taxable year where the last day prescribed by law for filing the return by the electing United States shareholder (not including any extensions thereof) occurs on or before September 30, 1964,

by filing with the request for the first such extension of time a written statement stating that such election is made for such taxable year and setting forth the names of the foreign corporations to which each election applies.

(3) *Revocation or change of election.* An election made in the manner provided by subparagraph (2) of this paragraph may be revoked or changed—

(i) By filing with the return on or before the 90th day after September 30, 1964, a written statement that such election is revoked or changed, as the case may be, and by setting forth with respect to any such modified election the information prescribed by subparagraph (2)(i)(*b*) of this paragraph, or

(ii) Where the return has been filed on or before such 90th day, by filing on or before such 90th day an amended return and an accompanying statement that such election is revoked or changed, as the case may be, and by setting forth with respect to any such modified election the information prescribed by subparagraph (2)(i)(*b*) of this paragraph.

(b) *Extension of time for making a minimum distribution*—(1) *In general.* This paragraph applies only with respect to a taxable year of a United States shareholder ending on or before September 30, 1964, for which an election to secure an exclusion under section 963 is made where, in case of a first-tier election, the distribution period of such first-tier corporation with respect to its taxable year to which such election applies ends on or before the 90th day after such date, and where, in the case of a chain or group election, the distribution period ends on or before such 90th day with respect to the taxable year to which the election applies of any of the foreign corporations in such chain or group.

(2) *Conditions for obtaining extension of time.* A distribution on stock with respect to which the election under section 963 was made which is received by the United States shareholder from a foreign corporation which was the single first-tier corporation, or a corporation in the chain or group, as the case may be, with respect to which the election was made, shall count toward a minimum distribution under section 963 for such year of election if—

(i) The distribution is made on or before such 90th day,

(ii) The shareholder, in a statement attached to its return or amended return for such year (which is filed on or before such 90th day) indicates the foreign corporation or corporations from which the distribution is made and states that, and the extent to which, the distribution is to count toward such minimum distribution,

(iii) The distribution is of such a nature as would have permitted it to count toward a minimum distribution for such taxable year of the United States shareholder if it had been made on the last day of such year, and

(iv) The United States shareholder includes the distribution in gross income as if it were received on the last day of such taxable year of election.

The distribution shall be applied against the earnings and profits of the single first-tier corporation or the foreign corporations in the chain or group for the taxable year of such corporation or corporations to which the election applies.

(3) *Year of receipt.* To the extent that a distribution counts toward a minimum distribution under this paragraph with respect to a taxable year of the United States shareholder, it shall be treated as having been received by the shareholder in that year for the purpose of determining gross income and the assessment of interest, additional amounts, and assessable penalties; and, for purposes of the foreign tax credit under section 901, the foreign income taxes paid or accrued, or deemed paid, by the United States shareholder by reason of a distribution of any amount treated as a distribution for such year under this paragraph shall be treated as paid or accrued, or deemed paid, for such year.

(4) *Year of payment.* The distribution shall be treated for purposes of applying paragraph (a) of §1.963–3, relating to conditions under which earnings and profits are counted toward a minimum distribution, and paragraph (b)(3) of §1.963–4, relating to rules for distributing through a chain or group, as if it were distributed during the distribution period (as defined in paragraph (g)

of §1.963–3) with respect to the distributing corporation and each foreign corporation through which such distribution is made to the United States shareholder, for the taxable year to which the election under section 963 applies; and the foreign income taxes paid by any foreign corporation by reason of such distribution shall, in the application of section 902 and of the special rules of paragraph (c) of §1.963–4, be treated as paid or accrued by such foreign corporation for its taxable year to which such election applies. The distribution shall not count toward a minimum distribution for any other taxable year.

[T.D. 6759, 29 FR 13348, Sept. 25, 1964, as amended by T.D. 6767, 29 FR 14879, Nov. 3, 1964]

§ 1.963–8 Determination of minimum distribution during the surcharge period.

(a) *Taxable years not wholly within the surcharge period.* In the case of a taxable year beginning before the surcharge period and ending within the surcharge period, or beginning within the surcharge period and ending after the surcharge period, or beginning before January 1, 1970, and ending after December 31, 1969, section 963(b) provides the method for determining the required minimum distribution. Under the method prescribed in section 963(b) for such years, the required minimum distribution is an amount equal to the sums of:

(1) That portion of the minimum distribution which would be required if the provisions of section 963(b)(1) were applicable to the taxable year, which the number of days in such taxable year which are within the surcharge period and before January 1, 1970, bears to the total number of days in such taxable year.

(2) That portion of the minimum distribution which would be required if the provisions of section 963(b)(2) were applicable to such taxable year, which the number of days in such taxable year which are within the surcharge period and after December 31, 1969, bears to the total number of days in such taxable year, and

(3) That portion of the minimum distribution which would be required if the provisions of section 963(b)(3) were applicable to such taxable year, which the number of days in such taxable year which are not within the surcharge period bears to the total number of days in such taxable year.

(b) *Calendar year 1970.* For calendar year 1970, the required minimum distribution shall be an amount determined in accordance with the following table:

If the effective foreign tax rate is (percentage)—	The required minimum distribution of earnings and profits is (percentage)—
Under 9	84.983562
9 or over but less than 10	82.967123
10 or over but less than 18	80.983562
18 or over but less than 19	79.471233
19 or over but less than 26	77.487671
26 or over but less than 27	73.958904
27 or over but less than 32	70.487671
32 or over but less than 33	67.463014
33 or over but less than 36	63.991781
36 or over but less than 37	57.942466
37 or over but less than 39	51.991781
39 or over but less than 40	44.934247
40 or over but less than 41	37.495890
41 or over but less than 42	31.446575
42 or over but less than 43	19.446575
43 or over but less than 44	12.893151
44 or over but less than 45	6.446575
45 or over	0

(c) *Surcharge period.* For purposes of this section the term ''surcharge period'' means the period beginning January 1, 1968, and ending June 30, 1970.

(d) *Illustration of principles.* The application of the rules set forth in paragraphs (a), (b), and (c) of this section may be illustrated by the following example. It is assumed that all computations are carried to sufficient accuracy:

Example. (a) M, a domestic corporation, and A, its controlled corporation (the one class of stock of which is wholly owned by M), both have a taxable year beginning December 1, 1969, and ending November 30, 1970. For such taxable year M makes a first-tier election with respect to A corporation. The effective foreign tax rate for such year is 30 percent.

(b) Under section 963(b) and paragraph (b) of this section the surcharge period ends June 30, 1970. Therefore, of the 365 days in the taxable year, 153 days are not within the surcharge period. Of the remaining 212 days, 31 are within the surcharge period and before January 1, 1970 and 181 days are within the surcharge period and after December 31, 1969. If section 963(b)(1) were applicable to the entire taxable year, the required minimum distribution of earnings and profits would be 75