(2) Paragraph (3) of EASA AD 2025–0214 specifies revising the approved aircraft maintenance program (AMP) within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after the effective date of this AD.

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2025–0214 is at the applicable associated thresholds as incorporated by the requirements of paragraph (3) of EASA AD 2025–0214, or within 90 days after the effective date of this AD, whichever occurs later.

(4) This AD does not adopt the provisions specified in paragraph (4) of EASA AD 2025–0214.

(5) This AD does not adopt the ''Remarks'' section of EASA AD 2025–0214.

(i) Provisions for Alternative Actions and Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) and intervals are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2025–0214.

(j) Terminating Action for Certain Tasks Required by AD 2024–16–02

Accomplishing the actions required by this AD terminates the corresponding requirements of AD 2024–16–02 for the tasks identified in the material referenced in EASA AD 2025–0214 only.

(k) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, AIR–520, Continued Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the Continued Operational Safety Branch, send it to the attention of the person identified in paragraph (l) of this AD and email to: *AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, AIR–520, Continued Operational Safety Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(l) Additional Information

For more information about this AD, contact Nicholas Benson, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3647; email: *nicholas.h.benson@faa.gov.*

(m) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference of the material listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this material as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2025–0214, dated September 30, 2025.

(ii) [Reserved]

(3) For EASA material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.*

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(5) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit *www.archives.gov/federal-register/cfr/ibr-locations* or email *fr.inspection@nara.gov.*

Issued on September 9, 2026.

Lona C. Saccomando,

Acting Deputy Director, Integrated Certificate Management Division, Aircraft Certification Service.

[FR Doc. 2026–18575 Filed 9–10–26; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–117273–25]

RIN 1545–BR90

Allocation and Apportionment of Deductions to Foreign Source Section 951A Category Income and Deduction Eligible Income

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations related to the allocation and apportionment of deductions to foreign source section 951A category income for foreign tax credit limitation purposes and for purposes of calculating deduction eligible income. The proposed regulations would affect taxpayers that operate in foreign countries through foreign corporations and domestic corporations that claim the deduction for foreign-derived deduction eligible income.

DATES: Written or electronic comments and requests for a public hearing must be received by November 10, 2026.

ADDRESSES: Commenters are strongly encouraged to submit public comments electronically. Submit electronic submissions via the Federal eRulemaking Portal at *www.regulations.gov* (indicate IRS and REG–117273–25) by following the online instructions for submitting comments. Requests for a public hearing must be submitted as prescribed in the ''Comments and Requests for a Public Hearing'' section. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (Treasury Department) and the IRS will publish for public availability any comments to the IRS's public docket. Send paper submissions to: CC:PA:01:PR (REG–117273–25), Room 5503, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations generally, John Lee or Alex Kaplan at (202) 317–6936; and concerning submissions of comments and requests for a public hearing, Publications and Regulations at (202) 317–6901 (not toll-free numbers) or by sending an email to *publichearings@irs.gov* (preferred).

SUPPLEMENTARY INFORMATION:

Authority

This document contains proposed additions and amendments to 26 CFR part 1 (proposed regulations) regarding section 904(b)(5) and section 250(b)(3) of the Internal Revenue Code (Code). The proposed regulations are issued pursuant to the express delegations of authority under sections 250(c) and 7805(a).

Background

I. Section 250(b)(3)

For taxable years beginning after December 31, 2025, section 250(a)(1)(A) provides a deduction to a domestic corporation equal to a percentage of the corporation's foreign-derived deduction eligible income (FDDEI). FDDEI is the deduction eligible income (DEI) of any domestic corporation that is derived in connection with (i) property that is sold by the taxpayer to any person who is not a United States person and that the taxpayer establishes to the satisfaction of the Secretary is for a foreign use, or (ii) services provided by the taxpayer which the taxpayer establishes to the satisfaction of the Secretary are provided to any person, or with respect to property, not located within the United States. Section 250(b)(1).

Section 250(b)(3)(A) was amended by section 70322 of Public Law 119–21, 139 Stat. 72 (July 4, 2025), commonly known as the One, Big, Beautiful Bill Act (the OBBBA). Prior to its amendment, section 250(b)(3)(A) defined DEI as the excess (if any) of a domestic corporation's gross income determined without regard to six categories of gross income, described in section 250(b)(3)(A)(i)(I) through (VI), over the deductions (including taxes) properly allocable to such gross income. Section 70322(b) of the OBBBA amended section 250(b)(3)(A)(ii) to reduce gross income by the ''expenses and deductions (including taxes), other than interest expense and research or experimental expenditures, properly allocable to such gross income.'' Section 70322(b)(2) of the OBBBA provides that the amendment to section 250(b)(3)(A)(ii) applies to taxable years beginning after December 31, 2025.

II. Section 904(b)(5)

As discussed in more detail in part III of this Background, section 904(a) and (d) limit the foreign tax credit for foreign taxes attributable to amounts described in section 904(d)(1)(A) (section 951A category income) to the amount of U.S. tax imposed on the taxpayer's net foreign source section 951A category income. To determine the taxpayer's net foreign source section 951A category income, the taxpayer must determine the amount of deductions that are allocated and apportioned to foreign source section 951A category income. The rules for allocating and apportioning deductions to foreign source section 951A category income, as well as to foreign source gross income in the other categories listed in, or treated as listed in, section 904(d)(1) (each, a ''separate category,'' [1] and to gross income from sources within the United States (U.S. source income), are generally found in the regulations described in § 1.861–8(a)(1) (the section 861 regulations).

The OBBBA made several changes to the Code with respect to the foreign tax credit rules, including rules for allocating and apportioning deductions for purposes of determining the foreign tax credit limitation. In particular, the OBBBA added section 904(b)(5), which provides special rules for allocating and apportioning deductions to foreign source income for purposes of applying section 904(a) with respect to section 951A category income. Section 904(b)(5)(A) provides that any deduction allowed under section 250(a)(1)(B) and any deduction allowed under section 164(a)(3) for taxes imposed on amounts described in section 250(a)(1)(B) are allocated and apportioned to foreign source section 951A category income. Section 904(b)(5)(B) provides that no amount of interest expense or research and experimental (R&E) expenditures is allocated or apportioned to foreign source section 951A category income. Section 904(b)(5)(C) provides that any other deduction is allocated and apportioned to foreign source section 951A category income only if the deduction is directly allocable to such income. Pursuant to the second sentence in section 904(b)(5), any amount or deduction that would (but for section 904(b)(5)(B) and (C)) have been allocated or apportioned to foreign source section 951A category income is only allocated or apportioned to U.S. source income. Section 70311(c) of the OBBBA provides that the amendment to section 904(b) applies to taxable years beginning after December 31, 2025.

III. The Foreign Tax Credit Limitation

Section 904(a) limits a taxpayer's foreign tax credit to the amount of U.S. tax imposed on the taxpayer's foreign source taxable income. For this purpose, foreign source taxable income cannot exceed the taxpayer's entire taxable income.

Other provisions in section 904 set forth additional rules for determining the limitation on the amount of the foreign tax credit a taxpayer is allowed. Section 904(d) provides that the limitation in section 904(a) is applied separately with respect to each separate category. Section 904(b) provides special rules for determining the taxpayer's foreign source taxable income and entire taxable income needed to compute the foreign tax credit limitation. Section 904(f) provides rules that apply if a taxpayer sustains a loss from sources within the United States (U.S. source loss), an overall foreign loss (OFL), or a separate limitation loss (SLL) with respect to one or more separate categories. Section 904(g) provides rules that apply if a taxpayer sustains an overall domestic loss (ODL) for the taxable year.

To the extent a taxpayer has a U.S. source loss, the U.S. source loss reduces foreign source taxable income in the separate categories (separate limitation income (SLI)) on a proportionate basis. Section 904(f)(5)(D).

To the extent of an ODL (subject to limitations), a taxpayer's U.S. source taxable income in subsequent taxable years is recharacterized as foreign source taxable income. Under section 904(g)(2)(A), in the case of a taxpayer that chooses to claim a foreign tax credit for the taxable year, an ODL is a domestic loss for the taxable year that offsets foreign source taxable income for the taxable year or for any preceding taxable year (by reason of a carryback) in which the taxpayer chose to claim a foreign tax credit. In the case of a taxpayer that does not choose to claim a foreign tax credit for the taxable year, an ODL is a domestic loss for the taxable year that offsets foreign source taxable income for any preceding taxable year in which the taxpayer chose to claim a foreign tax credit. Section 904(g)(2)(B) defines the term ''domestic loss'' as the amount by which the deductions properly apportioned or allocated to gross U.S. source income for the taxable year exceed the gross U.S. source income (determined without regard to any carryback from a subsequent taxable year).

IV. Allocation and Apportionment of Deductions

A. In General

The section 861 regulations provide general rules for allocating and apportioning deductions for purposes of various sections of the Code that require the determination of taxable income (each an operative section), including sections 250(b), 871(b)(1), 882(a)(1), and 904(d)(1). *See* § 1.861–8(a)(1) and (f)(1). Generally, deductions are allocated and apportioned based on the factual relationship of the deduction to a class or a grouping of gross income. *See* § 1.861–8(b)(1) and § 1.861–8T(c)(1). A deduction is first allocated to a class of gross income and then, if necessary to make the determination of taxable income required by the operative section of the Code, apportioned within the class among the statutory and residual groupings of gross income.

A class of gross income may consist of one or more items (or subdivisions of these items) of gross income enumerated in section 61, such as gross income derived from business and gains from dealings in property. A deduction is allocated to a class of gross income if it is definitely related to the class of gross income. A deduction is definitely related to a class of gross income if it is incurred as a result of, or incident to, an activity or in connection with property that generates, has generated, or could reasonably have been expected to generate gross income in the class. § 1.861–8(b)(2). If a deduction is not definitely related to a class of gross income constituting less than all gross income, it is ordinarily treated as

[1] *See* § 1.904–5(a)(4)(v).

definitely related and allocable to all of the taxpayer's gross income. § 1.861–8(b)(5). Certain deductions may not be definitely related to any gross income. § 1.861–8(e)(9).

After a deduction has been allocated to a class of gross income, the deduction is apportioned among the statutory and residual groupings within the class of gross income in a manner that reflects to a reasonably close extent the factual relationship between the deduction and the grouping of gross income. § 1.861–8T(c)(1). A statutory grouping is the gross income from a specific source or activity relevant to the operative section. Gross income from other sources or activities is included in the residual grouping. For example, section 904(d)(1) is the operative section when applying the section 861 regulations to determine foreign source taxable income in each separate category for purposes of the foreign tax credit limitation. Accordingly, the foreign source income in each separate category is a statutory grouping, and U.S. source income is the residual grouping.

B. Interest Expense

Sections 1.861–9, 1.861–9T, 1.861–10, 1.861–10T, 1.861–11, and 1.861–11T, and related §§ 1.861–12, 1.861–12T, and 1.861–13, provide rules for allocating and apportioning interest expense that is deductible under section 163. Under §§ 1.861–9 and 1.861–9T, interest expense is generally allocated to all gross income that the taxpayer's assets generate and apportioned to statutory and residual groupings based on the average total value of assets within each grouping for the taxable year, as determined under the asset valuation rules and asset characterization rules provided in those sections and §§ 1.861–12, 1.861–12T, and 1.861–13 (the asset method). *See also* section 864(e)(2). In a set of narrow circumstances, the general rule provided under §§ 1.861–9 and 1.861–9T does not apply. In those circumstances, interest expense is directly allocated to income generated by certain assets or investments. *See* §§ 1.861–10 and 1.861–10T.

C. Research and Experimental Expenditures

Section 1.861–17 provides rules for allocating and apportioning R&E expenditures, as defined in § 1.861–17(a). Section 1.861–17(b) allocates R&E expenditures to gross intangible income (as defined in § 1.861–17(b)(2)) that is reasonably connected with the taxpayer's Standard Industrial Classification (SIC) code category or categories. Gross intangible income does not include dividends or any amounts included in income under section 951, 951A, or 1293. *See* § 1.861–17(b)(2).

Section 1.861–17(d) apportions R&E expenditures among the statutory and residual groupings within the class of gross intangible income in proportion to the taxpayer's gross receipts (and gross receipts of certain related and unrelated taxpayers) from sales and leases of products or services that are related to gross intangible income in the groupings. If, however, the taxpayer performs at least 50 percent of the R&E activities in the United States or more than 50 percent of the R&E activities outside the United States, then, for purposes of determining the taxpayer's foreign tax credit limitation, § 1.861–17(c) apportions 50 percent of the taxpayer's R&E expenditures to U.S. source gross intangible income or foreign source gross intangible income, respectively (the exclusive apportionment rule). The remaining 50 percent of R&E expenditures is apportioned under § 1.861–17(d).

D. Deductions Allowed Under Sections 250(a)(1)(B) and 164(a)(3)

Section 250(a) permits a domestic corporation a deduction for 33.34 percent of the domestic corporation's FDDEI and 40 percent of the domestic corporation's net CFC tested income under section 951A and related section 78 deemed dividend. Under § 1.861–8(e)(14), the portions of the section 250(a) deduction attributable to net CFC tested income (reduced by a taxable income limitation under section 250(a)(2)(B)(ii)) and the related deemed dividend are considered definitely related and allocable to the classes of gross income included under section 951A(a) and section 78, respectively. To the extent the class of gross income includes income in more than one grouping, the respective portions of the section 250(a) deduction are apportioned based on the relative amounts of gross income in each grouping. § 1.861–8(e)(14).

Section 164(a)(3) permits a deduction for State and local, and foreign, income, war profits, and excess profits taxes paid or accrued by the taxpayer in the taxable year. A deduction for State and local taxes is considered definitely related and allocable to the gross income on which the State and local taxes are imposed. § 1.861–8(e)(6).

E. Other Deductions

Section 1.861–8 provides specific rules for the allocation and apportionment of certain other deductions. Stewardship expenses that are allocable to a class of gross income that includes gross income in more than one grouping are apportioned based on the relative values of the entity or entities in each grouping that are owned by the taxpayer that incurred the stewardship expense. § 1.861–8(e)(4)(ii)(C).

Legal and accounting fees and expenses may be allocable either to specific classes of gross income or to all of the taxpayer's gross income and are apportioned among statutory and residual groupings based on the amounts of gross income in the groupings or some other apportionment factor. §§ 1.861–8(b)(5), (e)(5)(i) and 1.861–8T(c)(1). *See also* § 1.861–8(e)(5)(ii) and (iii) (apportioning deductions arising from product liability and other claims for damages on the basis of certain gross income or assets).

Net operating loss (NOL) deductions are allocated and apportioned to statutory and residual groupings by reference to the statutory and residual groupings of the components of the NOL. § 1.861–8(e)(8)(ii). An NOL is separated into components that are assigned to statutory or residual groupings by reference to the loss in each statutory or residual grouping that does not reduce income in other groupings in the taxable year of the loss. § 1.861–8(e)(8)(i). When section 904 is the operative section, § 1.861–8(e)(8)(i) determines the source and separate category components of an NOL by reference to the amounts of SLL and U.S. source loss (determined without regard to adjustments required under section 904(b)) that are not allocated to reduce U.S. source income or SLI in other separate categories under the rules of section 904(f) for the taxable year in which the NOL arose.

Deductions that are supportive in nature (such as for overhead, general and administrative, and supervisory expenses) may be allocated and apportioned along with other deductions to which they relate that are more readily allocated to gross income. § 1.861–8(b)(3). Alternatively, they may be attributed directly to activities or property, in which case they will ordinarily be allocated to a broad class of gross income or all gross income. *Id.* If allocated to all gross income, supportive deductions are apportioned among the statutory and residual groupings based on the amounts of gross income in the groupings or some other apportionment factor. §§ 1.861–8(b)(5) and 1.861–8T(c)(1).

Rules for allocating and apportioning certain deductions are contained in regulations other than the section 861 regulations. For example, § 1.904–4(p) provides the rule for allocating foreign currency gain or loss under section 986(c) with respect to a distribution of previously taxed earnings and profits (PTEP) (section 986(c) gain or loss). Section 1.904–4(p) provides that section 986(c) gain or loss is assigned to the separate category or categories of the PTEP from which the distribution is made. Section 986(c) provides that the foreign currency gain or loss with respect to distributions of PTEP is treated as from the same source as the associated income inclusion.

Explanation of Provisions

I. Allocation and Apportionment of Deductions to DEI

Section 250(b)(3)(A), as amended by section 70322(b) of the OBBBA, defines a domestic corporation's DEI as a net amount that is computed by determining the excess of the corporation's gross income without regard to certain excluded items (gross DEI) over expenses and deductions (including taxes), other than interest expense and R&E expenditures, properly allocable to gross DEI. Existing regulations under section 250 (section 250 regulations) provide rules for computing a taxpayer's DEI for a taxable year. Under these rules, first, a taxpayer determines its gross DEI, gross FDDEI, and gross residual DEI (gross RDEI), which is the portion of gross DEI for a taxable year that is not gross FDDEI. § 1.250(b)–1(c)(14) through (16) (defining gross RDEI, gross DEI, and gross FDDEI, respectively). Next, the taxpayer determines its deductions for the taxable year properly allocable to gross DEI and gross FDDEI without regard to certain Code sections, including section 163(j). § 1.250(b)–1(d)(2)(ii). Lastly, the taxpayer allocates and apportions its deductions for the taxable year to gross DEI and gross FDDEI under the rules of §§ 1.861–8 through 1.861–14T and 1.861–17 by treating: (i) section 250(b) as an operative section described in § 1.861–8(f), (ii) gross FDDEI and gross RDEI as separate statutory groupings, and (iii) the items of gross income that are excluded from gross DEI as the residual grouping. § 1.250(b)–1(d)(2)(i) and (c)(15)(i) through (vi).

The proposed regulations would update the section 250 regulations to reflect the amendment to section 250(b)(3)(A)(ii) made by section 70322(b) of the OBBBA. First, the proposed regulations would provide that a taxpayer's gross DEI and gross FDDEI for a taxable year are reduced by the properly allocable expenses and other deductions (referred to collectively as ''deductions'') that the taxpayer deducts in the taxable year. Proposed § 1.250(b)–1(a). The proposed regulations would add the term ''expenses'' to existing § 1.250(b)–1(a) in order to reflect the addition of this term, and the related term ''interest expense,'' in amended section 250(b)(3)(A)(ii). By taking into account amounts that are deducted in the taxable year in order to compute DEI and FDDEI, the proposed regulations would reflect that DEI and FDDEI are measures of taxable income.

Second, the proposed regulations would provide that taxpayers must determine their deductions for the taxable year properly allocable to gross DEI and gross FDDEI without regard to interest expense and R&E expenditures. Proposed § 1.250(b)–1(d)(2)(ii). The proposed regulations would define interest expense as any amount that is deductible under section 163 (including original issue discount). To reflect that interest expense is no longer allocable to gross DEI and gross FDDEI, the proposed regulations would remove the reference to section 163(j) in existing § 1.250(b)–1(d)(2)(ii). The proposed regulations would define R&E expenditures as any expenditure that a taxpayer deducts (including as an amortization deduction) in a taxable year under section 174, 174A, or 59(e)(2)(B). Proposed § 1.250(b)–1(d)(2)(ii). Lastly, the proposed regulations would update the general references to the section 861 regulations to use the defined term ''section 861 regulations'' provided in § 1.861–8(a). Proposed § 1.250(b)–1(d)(2)(i).

The Treasury Department and the IRS intend to issue separate guidance regarding section 250, which would update the section 250 regulations to reflect other amendments made by the OBBBA. Separate guidance would address, for example, the removal of the deemed tangible income return and deemed intangible income from calculation of the deduction provided under section 250(a)(1)(A) for taxable years beginning after December 31, 2025.

II. Section 904(b)(5)

A. Deductions Allocated and Apportioned to Foreign Source Section 951A Category Income for Purposes of Section 904(a)

1. Overview

As noted in part II of the Background section of this preamble, the first sentence of section 904(b)(5) describes three categories of deductions and specifies whether the category of deduction is allocated or apportioned to foreign source section 951A category income for purposes of section 904(a).

2. Deductions Under Section 250(a)(1)(B) and Section 164(a)(3)

The first category of deductions is described in section 904(b)(5)(A) and consists of the deduction allowed under section 250(a)(1)(B) and the deduction under section 164(a)(3) to the extent tax is imposed on the taxpayer's net CFC tested income or section 78 gross-up attributable to such income.

For purposes of determining the extent to which a deduction under section 250(a)(1)(B) is allocated or apportioned to foreign source section 951A category income, the proposed regulations would apply the allocation and apportionment rules of § 1.861–8(e)(14). Proposed § 1.904(b)–4(b)(1)(i).

The first category also includes any deduction under section 164(a)(3) for a tax with the same or similar tax base as the Federal income tax such that all or a portion of the tax is attributable to the taxpayer's net CFC tested income amount or the section 78 gross-up attributable to that amount. This may arise, for instance, where a State income tax reflects a policy of Federal-State conformity and therefore includes in the tax base all or a portion of a taxpayer's net CFC tested income amount or the section 78 gross-up attributable to that amount. For purposes of determining the extent to which a deduction for State or local income taxes under section 164(a)(3) is imposed on net CFC tested income (or the associated section 78 gross-up) and allocated or apportioned to foreign source section 951A category income, the proposed regulations would apply the allocation and apportionment rules of § 1.861–8(e)(6). Proposed § 1.904(b)–4(b)(1)(ii). The proposed regulations would not include in the first category a deduction for foreign income taxes under section 164(a)(3) because foreign income taxes are not expected to be imposed on a U.S. shareholder's net CFC tested income amount or the section 78 gross-up attributable to that amount.

3. Deductions for Interest Expense and Research and Experimental Expenditures

Deductions in the second category consist of the deductions for interest expense and R&E expenditures. Section 904(b)(5)(B). The proposed regulations would define interest expense to mean any expense that is deductible under section 163 (including original issue discount) and R&E expenditures to mean any expenditure that a taxpayer deducts (including as an amortization deduction) in a taxable year under section 174, 174A, or 59(e)(2)(B). Proposed § 1.904(b)–4(b)(3).

4. Directly Allocable Deductions

Deductions in the third category consist of any other deduction that is ''directly allocable'' to foreign source section 951A category income. Section 904(b)(5)(C).

Section 904(b)(5) does not define the term ''directly allocable.'' While the term appears in several other Code sections, those sections also do not define the term, and the term has no consistent accepted meaning. In comparison, the term ''properly allocable'' (or the variation ''properly apportioned or allocated'') appears more frequently in the Code, including in sections 861, 862, 863, and 904. For those sections, the section 861 regulations provide the general framework for determining the deductions properly allocable to the relevant gross income. Under the section 861 regulations, a deduction may be allocated and apportioned to a grouping of income because the deduction resulted from activities or property that generated income in the grouping. If the deduction is instead related to all the taxpayer's gross income, a portion of the deduction may be allocated and apportioned to each grouping.

The Treasury Department and the IRS interpret the term ''directly allocable'' in section 904(b)(5) as requiring a closer, more direct relationship between the deduction and income than the term ''properly allocable'' as construed under the section 861 regulations. This interpretation is supported by the statute's use of the word ''directly'' and further supported by the structure of the statute. Section 904(b)(5)(C) provides that any deduction that is not in the first or second category is allocated and apportioned to foreign source section 951A category income only if the deduction is directly allocable to such income. This language indicates that ''directly allocable'' deductions are a subset of the ''properly allocable'' deductions that, before the enactment of section 904(b)(5), would have reduced foreign source section 951A category income.

The scope of deductions that may be properly allocable to foreign source section 951A category income but do not have the requisite degree of direct relationship to be considered directly allocable is informed by the deductions that the statute, in section 904(b)(5)(B), disregards in determining foreign source section 951A category income for purposes of applying section 904(a). Both interest expense and R&E expenditures are typically apportioned among statutory and residual groupings by use of proxies. Section 1.861–9T generally requires taxpayers to apportion interest expense based on the relative value of assets within statutory and residual groupings. *See also* section 864(e)(2). Section 1.861–17 requires that all or, where the exclusive apportionment rule of § 1.861–17(c) applies, a portion of R&E expenditures be apportioned based on the relative amount of gross receipts within statutory and residual groupings. This type of apportionment by proxy does not reflect the type of direct link between a deduction and foreign source section 951A category income required for a deduction to be ''directly allocable'' to such income.

Accordingly, the proposed regulations would first allocate and apportion deductions to foreign source section 951A category income without regard to section 904(b)(5) and then reallocate to U.S. source income those deductions that are not directly allocable. Under the proposed regulations, a deduction is not directly allocable if it is of a type that, under the applicable rules for allocating and apportioning deductions (without regard to section 904(b)(5)), is subject to apportionment based on the relative value of assets or amounts of U.S. gross income (including modified gross income). Proposed § 1.904(b)–4(b)(2)(i). The relevant inquiry is not how a particular item of deduction is in fact apportioned, but rather whether the item of deduction is of a type that may in some cases be apportioned based on the relative value of assets or amounts of U.S. gross income.

To provide clarity to taxpayers, proposed § 1.904(b)–4(b)(2)(ii) would specify certain deductions that are not directly allocable under this definition and certain deductions that are directly allocable under this definition. Stewardship expenses, for example, would not be directly allocable to foreign source section 951A category income because stewardship expenses are a type of deduction that is apportioned based on the relative values of entities in the statutory and residual groupings. *See* § 1.861–8(e)(4)(ii)(C). Legal expenses also would not be directly allocable to foreign source section 951A category income. *See* § 1.861–8(e)(5).

On the other hand, foreign source section 986(c) loss that is assigned to the separate category described in section 904(d)(1)(A) (section 951A category) would be directly allocable to foreign source section 951A category income. Section 986(c) loss is not a type of deduction that is subject to apportionment based on the relative value of assets or amounts of gross income. Rather, section 986(c) loss is determined separately with respect to PTEP in each separate category. Any section 986(c) loss is assigned to the separate category of the distributed PTEP and has the same source as the associated income inclusion. *See* § 1.904–4(p) and section 986(c).

Comments are requested on whether further guidance is needed on the application of section 904(b)(5) to other deductions.

5. Net Operating Loss Carryovers and Deductions

a. Application of Section 904(b)(5) in a Taxable Year in Which an NOL Arises

Proposed § 1.861–8(e)(8)(i) would provide that, unlike the other adjustments in section 904(b), section 904(b)(5) is taken into account in determining the SLL and U.S. source loss components of an NOL. Otherwise, the portion of an NOL that is attributable to a deduction that would be allocated or apportioned to foreign source section 951A category income but for section 904(b)(5) could create an SLL with respect to the section 951A category that is carried over to reduce foreign source section 951A category income in a different taxable year. The Treasury Department and the IRS are of the view that this would be contrary to the instruction of section 904(b)(5).

Proposed § 1.861–8(e)(8)(i) would continue to provide that section 904(b)(2) and (4) are disregarded when determining the source and separate category components of an NOL. The different treatment of the adjustments under section 904(b)(2) and (4) and the adjustment under section 904(b)(5) reflects the fact that, unlike section 904(b)(5), section 904(b)(2) and (4) adjust amounts of deductions and affect worldwide taxable income for purposes of the foreign tax credit limitation.

The proposed regulations would also amend § 1.904(b)–3(d)(2) to clarify that, when determining the components of an NOL, the rules in section 904(f) and (g) are applied without taking into account the adjustments under section 904(b)(4).

b. Application of Section 904(b)(5) in a Taxable Year in Which an NOL Carryover Is Deducted

In the taxable year in which a taxpayer deducts an NOL carryover, section 904(b)(5) and the rules for allocating and apportioning deductions apply to determine the U.S. and foreign source taxable income in separate categories before determining the NOL components to be carried over and combined with the U.S. and foreign source taxable income in the separate categories under § 1.904(g)–3(b). Section 904(b)(5) applies before determining the NOL components to be carried over because § 1.904(g)–3 applies after deductions for the current taxable year (other than the NOL deduction) have been allocated and apportioned among the statutory and residual groupings before determining the amounts of the NOL components to be carried over.

c. Treatment of NOLs as Directly Allocable Deductions

The proposed regulations would provide that an NOL deduction under section 172 that is allocated and apportioned to foreign source section 951A category income under § 1.861–8(e)(8) is directly allocable to foreign source section 951A category income. *See* proposed § 1.904(b)–4(b)(2)(ii)(B). This approach reflects the fact that NOL deductions are not subject to apportionment based on the relative value of assets or amounts of U.S. gross income. *See* § 1.861–8(e)(8). Moreover, for NOLs that arise after the applicability date of section 904(b)(5), the component of an NOL that is assigned to foreign source section 951A category income under proposed § 1.861–8(e)(8)(i) will already exclude amounts that are not allocated or apportioned to foreign source section 951A category income by reason of section 904(b)(5). Accordingly, treating that component of those NOLs as directly allocable to foreign source section 951A category income preserves the same outcome that would have occurred if the deductions had reduced income in the taxable year in which they were incurred.

B. Reallocation of Deductions to U.S. Source Income

1. Deductions That Are Reallocated

Section 904(b)(5)(B) and (C) identify deductions that are not allocated to foreign source section 951A category income for purposes of section 904(a): interest expense, R&E expenditures, and deductions that are not ''directly allocable'' to foreign source section 951A category income (collectively, excluded deductions). The second sentence of section 904(b)(5) provides that, to the extent an amount of the excluded deductions would have been allocated or apportioned to foreign source section 951A category income but for section 904(b)(5)(B) and (C), that amount of the excluded deductions is allocated to U.S. source income (reallocated deductions).

The proposed regulations would determine the reallocated deductions by first allocating and apportioning deductions to foreign source section 951A category income using existing rules for allocating and apportioning deductions. This preliminary allocation and apportionment is performed without regard to section 904(b)(5) and is performed for purposes of determining the amount of reallocated deductions. Only deductions that are allocated and apportioned to foreign source section 951A category income under this preliminary step may be reallocated to U.S. source income as a result of the second sentence of section 904(b)(5). *See* proposed § 1.904(b)–4(c).

This approach produces different outcomes as applied to the different categories of excluded deductions. A deduction that is not directly allocable to foreign source section 951A income may, or may not, have been allocated or apportioned to such income under existing expense allocation and apportionment rules. Similarly, a deduction for interest expense may be allocable to foreign source section 951A category income under the section 861 regulations, including §§ 1.861–9, 1.861–9T, 1.861–10, 1.861–10T, 1.861–11, and 1.861–11T. Under § 1.861–17, however, deductions for R&E expenditures cannot be allocated to section 951A category income. In order to reallocate any amount of R&E expenditures to U.S. source income under the second sentence of section 904(b)(5), § 1.861–17 would need to be revised to allocate and apportion R&E expenditures to foreign source section 951A category income in the first instance. The preamble to the final § 1.861–17 regulations states that R&E expenditures cannot be allocated to section 951A category income because R&E expenditures, whether or not ultimately successful, are incurred to produce intangible property and a taxpayer's section 951A inclusions do not result from R&E expenditures incurred by the taxpayer. 85 FR 71,998, 72,005–06. The preamble states that, even if the section 951A inclusion relates to a CFC licensee of the intangible property produced by the R&E expenditures, the use of the intangible property by the CFC results in income to the taxpayer from the arm's length price paid by the CFC to the taxpayer (or, if the intangible property is transferred to the CFC in an exchange described in section 351 or 361, from a section 367(d) inclusion) rather than from the section 951A inclusion. *Id.* Accordingly, under § 1.861–17, a deduction for R&E expenditures is not allocable to section 951A category income. The Treasury Department and the IRS are of the view that these conclusions remain correct after the enactment of section 904(b)(5). Changing § 1.861–17 to allocate R&E expenditures to section 951A category income would require a theory for how R&E expenditures by a U.S. shareholder supports the production of section 951A category income, such as by identifying some portion of a CFC's tested income that is attributable to the use of the intangible property (which is owned by the U.S. shareholder and was produced as a result of the U.S. shareholder's R&E expenditures) for which the U.S. shareholder is not required to be fully compensated under section 482 principles.

Comments are requested on this proposed approach of applying existing rules for allocating and apportioning deductions to section 951A category income in the context of determining the deductions that are reallocated to U.S. source income.

2. Effect of Reallocated Deductions

Proposed § 1.904(b)–4(c) would provide that reallocated deductions are allocated to U.S. source income and confirms that this reallocation occurs for all purposes of section 904 including when applying rules, such as the section 861 regulations, when section 904 is the operative section. It follows that a taxpayer's aggregate foreign source taxable income will not exceed the taxpayer's entire taxable income, which is a requirement of section 904(a).

Likewise, because reallocated deductions are treated as allocated to U.S. source income for purposes of section 904(g)(2)(B), reallocated deductions may cause the taxpayer to sustain, or increase the amount of, a domestic loss within the meaning of section 904(g)(2)(B) that is taken into account in determining the taxpayer's ODL under section 904(g)(2)(A). If reallocated deductions were not allocated to U.S. source income for purposes of section 904(g)(2)(B), then the domestic loss, and therefore the ODL, would not reflect the amount by which the taxpayer's aggregate foreign source taxable income was reduced as a result of the U.S. source loss. In that case, the taxpayer would be unable to benefit from the full amount of recapture in subsequent years under section 904(g).

Similarly, because the reallocated deductions reduce U.S. source income, the reallocated deductions are not treated as ''properly apportioned and allocated'' to foreign source income in determining any OFL under section

904(f)(2). Reallocated deductions are treated as reducing U.S. source income, and not foreign source section 951A category income, for purposes of determining the amount of SLL or SLI in the section 951A category. Accordingly, the reallocation may affect the recapture of foreign source income in a separate category as U.S. source income or as foreign source income in a different separate category in subsequent years.

The Treasury Department and the IRS are studying whether any further changes to the regulations under section 904(f) and (g) are needed to reflect the approach described above.

III. Applicability Dates and Reliance

Under section 7805(b)(2) of the Code, the proposed regulations regarding section 250(b)(3) are proposed to apply to taxable years beginning after December 31, 2025. Proposed § 1.250–1(b). A taxpayer may rely on the proposed regulations regarding section 250(b)(3) for taxable years beginning after December 31, 2025 and before the date the proposed regulations are published as final regulations in the **Federal Register**, provided the taxpayer follows the proposed regulations regarding section 250(b)(3) in their entirety.

Under section 7805(b)(2) of the Code, proposed § 1.904(b)–4 and the proposed amendment to § 1.861–8(e)(8) would apply to taxable years beginning after December 31, 2025. Proposed § 1.904(b)–4(e). A taxpayer may rely on those proposed regulations for taxable years beginning after December 31, 2025 and before the date those proposed regulations are published as final regulations in the **Federal Register**, provided the taxpayer follows them in their entirety.

Special Analyses

I. Regulatory Planning and Review—Economic Analysis

The Office of Management and Budget's Office of Information and Regulatory Analysis has determined that this proposed regulation is not significant and is not subject to review under section 6(b) of Executive Order 12866. Therefore, a regulatory impact assessment is not required.

II. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) (PRA) generally requires that a Federal agency obtain the approval of the Office of Management and Budget before collecting information from the public, whether such collection of information is mandatory, voluntary, or required to obtain or retain a benefit. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

The collection of information in these proposed regulations includes recordkeeping requirements that are necessary for the allocation and apportionment of deductions to net CFC tested income and to deduction eligible income. These recordkeeping requirements are considered general tax records under § 1.6001–1. For PRA purposes, general tax records are already approved by OMB control number 1545–0047 for tax-exempt filers, 1545–0074 for individual filers, 1545–0092 for trust and estate filers, and 1545–0123 for business filers.

III. Regulatory Flexibility Act

When an agency issues a rulemaking proposal, the Regulatory Flexibility Act (5 U.S.C. chapter 6) (RFA) requires the agency to prepare and make available for public comment an initial regulatory flexibility analysis that will describe the impact of the proposed rule on small entities. *See* 5 U.S.C. 603(a). Section 605 of the RFA provides an exception to this requirement if the agency certifies that the proposed rulemaking will not have a substantial economic impact on a substantial number of small entities. A small entity is defined as a small business, small nonprofit organization, or small governmental jurisdiction. *See* 5 U.S.C. 601(3) through (6).

The proposed regulations will not have a significant economic impact on a substantial number of small entities within the meaning of section 601(3) through (6) of the RFA. The proposed regulations provide guidance on issues regarding sections 250(b)(3) and 904(b)(5) but do not change the economic impact of the existing regulations or impose any new costs on small entities. The proposed regulations do not impose any economic impact on taxpayers beyond what is imposed by the statute itself. Any economic impact on taxpayers flows directly from the underlying statute. It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities.

The Treasury Department and the IRS request comments from the public with respect to this certification.

IV. Submission to the Small Business Administration

Pursuant to section 7805(f) of the Code, the proposed regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small businesses.

V. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a State, local, or Tribal government, in the aggregate, or by the private sector, of $100 million in 1995 dollars, updated annually for inflation. The proposed regulations do not include any Federal mandate that may result in expenditures by State, local, or Tribal governments, or by the private sector in excess of that threshold.

VI. Executive Order 13132: Federalism

Executive Order 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State and local governments, and is not required by statute, or preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. The proposed regulations do not have federalism implications, do not impose substantial direct compliance costs on State and local governments, and do not preempt State law within the meaning of the Executive order.

Comments and Requests for a Public Hearing

Consideration will be given to comments that are submitted timely to the IRS as prescribed in the preamble under the **ADDRESSES** section. In addition to the comments specifically requested in the Explanation of Provisions, the Treasury Department and the IRS request comments on all aspects of the proposed regulations. Any comments submitted will be made available at *www.regulations.gov* or upon request.

A public hearing will be scheduled if requested in writing by any person who timely submits written comments. Requests for a public hearing are encouraged to be made electronically. If a public hearing is scheduled, notice of the date and time for the public hearing will be published in the **Federal Register**.

Statement of Availability of IRS Documents

Any IRS Revenue Procedures, Revenue Rulings, Notices, or other guidance cited in this document are published in the Internal Revenue Bulletin (or Cumulative Bulletin) and are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at *www.irs.gov*.

Drafting Information

The principal authors of these regulations are John Lee and Alex Kaplan, Office of Associate Chief Counsel (International). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, the Treasury Department and the IRS propose to amend 26 CFR part 1 as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read as follows:

Authority: 26 U.S.C. 7805 * * *

* * * * *

■ **Par. 2.** Section 1.250–1 is amended by adding two sentences at the end of paragraph (b) to read as follows:

§ 1.250–1 Introduction.

* * * * *

(b) * * * Section 1.250(b)–1(a) and (d)(2) apply to taxable years beginning after December 31, 2025. For taxable years beginning on or after January 1, 2021, and beginning before January 1, 2026, see § 1.250(b)–1(a) and (d)(2) as contained in 26 CFR part 1 revised as of April 1, 2026.

* * * * *

■ **Par. 3.** Section 1.250(b)–1 is amended by:

■ 1. Revising the fourth sentence of paragraph (a);

■ 2. Revising the first and second sentences of paragraph (d)(2)(i); and

■ 3. Revising paragraph (d)(2)(ii).

The revisions read as follows:

§ 1.250(b)–1 Computation of foreign-derived intangible income (FDII).

(a) * * * Paragraph (d) of this section provides rules for computing gross income and allocating and apportioning expenses and other deductions (referred to collectively in this section as ''deductions''), for purposes of computing deduction eligible income (DEI) and foreign-derived deduction eligible income. * * *

* * * * *

(d) * * *

(2) * * *

(i) * * * For purposes of determining a domestic corporation's deductions that are properly allocable to gross DEI and gross FDDEI, the corporation's deductions are allocated and apportioned to gross DEI and gross FDDEI under the section 861 regulations (as defined in § 1.861–8(a)) by treating section 250(b) as an operative section described in § 1.861–8(f). In allocating and apportioning deductions under the section 861 regulations, gross FDDEI and gross RDEI are treated as separate statutory groupings. * * *

(ii) *Determination of deductions to allocate.* For purposes of determining the deductions of a domestic corporation for a taxable year properly allocable to gross DEI and gross FDDEI, the deductions of the corporation for the taxable year are determined without regard to interest expense, research or experimental expenditures, and sections 170(b)(2), 172, 246(b), and 250. For purposes of this paragraph (d)(2)(ii), interest expense means any expense that is deductible under section 163 (including original issue discount) and research or experimental expenditures means any expenditure that a taxpayer deducts (including as an amortization deduction) in a taxable year under section 174, 174A, or 59(e)(2)(B).

* * * * *

■ **Par. 4.** Section 1.861–8 is amended by:

■ 1. Revising the fourth sentence of paragraph (b)(1);

■ 2. Revising the second sentence of paragraph (e)(8)(i); and

■ 3. Adding paragraph (h)(5).

The revisions read as follows:

§ 1.861–8 Computation of taxable income from sources within the United States and from other sources and activities.

* * * * *

(b) * * *

(1) * * * Allocation is accomplished by determining, with respect to each deduction, the class of gross income to which the deduction is definitely related and then allocating the deduction to such class of gross income (without regard to the taxable year in which such gross income is received or accrued or is expected to be received or accrued). * * *

* * * * *

(e) * * *

(8) * * *

(i) * * * For example, for purposes of applying this paragraph (e)(8)(i) with respect to section 904 as the operative section, the source and separate category components of a net operating loss are determined by reference to the amounts of separate limitation loss and U.S. source loss (determined without regard to adjustments required under section 904(b), other than section 904(b)(5)) that are not allocated to reduce U.S. source income or income in other separate categories under the rules of sections 904(f) and 904(g) for the taxable year in which the net operating loss arose. * * *

* * * * *

(h) * * *

(5) Paragraph (e)(8)(i) of this section applies to taxable years beginning after December 31, 2025. For taxable years that both begin after December 31, 2017, and end on or after December 2, 2018, and also begin on or before December 31, 2025, see § 1.861–8(e)(8)(i) as contained in 26 CFR part 1 revised as of April 1, 2026.

■ **Par. 5.** Section 1.904(b)–3 is amended by revising paragraph (d)(2) to read as follows:

* * * * *

(d) * * *

(2) *Net operating losses.* If the taxpayer has a net operating loss in the current taxable year, then solely for purposes of determining the source and separate category of the net operating loss, the overall foreign loss rules in section 904(f) and the overall domestic loss rules in section 904(g) are applied without taking into account the adjustments required under section 904(b)(4) and this section.

* * * * *

■ **Par. 6.** Add § 1.904(b)–4 to read as follows:

§ 1.904(b)–4 Deductions treated as allocable to foreign source section 951A category income.

(a) *In general.* Section 904(b)(5) provides special rules for purposes of section 904 for allocating and apportioning deductions to foreign source income described in section 904(d)(1)(A) (*foreign source section 951A category income*) and for reallocating certain deductions to U.S. source income. Paragraph (b) of this section provides rules for determining deductions allocated and apportioned to foreign source section 951A category income, including deductions that are directly allocable to such income. Paragraph (c) of this section provides rules for reallocating to U.S. source income deductions that would have been allocated and apportioned to foreign source section 951A category income but for section 904(b)(5). Paragraph (d) of this section contains examples illustrating the rules set forth in this section. Paragraph (e) of this section provides the applicability date of this section.

(b) *Deductions allocated and apportioned to foreign source section 951A category income*—(1) *In general.* For purposes of section 904, foreign source section 951A category income is determined by allocating and apportioning to such income only those deductions that are—

(i) Allowed under section 250(a)(1)(B) to the extent allocated and apportioned to foreign source section 951A category income in accordance with § 1.861–8(e)(14);

(ii) Allowed under section 164(a)(3) for State and local income taxes to the extent allocated and apportioned to foreign source section 951A category income in accordance with § 1.861–8(e)(6); or

(iii) Directly allocable to foreign source section 951A category income under paragraph (b)(2) of this section.

(2) *Directly allocable*—(i) *In general.* A deduction (other than a deduction described in paragraph (b)(1)(i), (ii), or (b)(3) of this section) that, under the applicable rules for allocating and apportioning deductions (without regard to section 904(b)(5)), is allocated and apportioned to foreign source section 951A category income is directly allocable to foreign source section 951A category income only if the deduction is of a type that is not subject to apportionment based on the relative value of assets or amounts of U.S. gross income (including modified gross income). It is not relevant how a particular item of deduction is in fact apportioned, but instead whether the item of deduction is of a type that could be apportioned based on the relative value of assets or amounts of U.S. gross income.

(ii) *Application*—(A) *Non-directly allocable deductions.* For purposes of this paragraph (b)(2), deductions that are not directly allocable to foreign source section 951A category income include deductions for stewardship expenses; legal and accounting fees and expenses; damages awards, prejudgment interest, and settlement payments; and supportive expenses (such as overhead, general and administrative, and supervisory expenses).

(B) *Directly allocable deductions.* For purposes of this paragraph (b)(2), deductions that are directly allocable to foreign source section 951A category income, if allocated and apportioned to foreign source section 951A category income under the applicable rules for allocating and apportioning deductions (without regard to section 904(b)(5)), include foreign currency loss recognized under section 986(c) with respect to a distribution of previously taxed earnings and profits (as described in section 959 or 1293(c)) (see § 1.904–4(p)) and net operating loss deductions (see § 1.861–8(e)(8)).

(3) *Non-allocable deductions.* No amount of interest expense or research and experimental expenditures is allocated or apportioned to foreign source section 951A category income for purposes of section 904. For purposes of this paragraph (b)(3), interest expense means any expense that is deductible under section 163 (including original issue discount) and research and experimental expenditures means any expenditure that a taxpayer deducts (including as an amortization deduction) in a taxable year under section 174, 174A, or 59(e)(2)(B).

(c) *Reallocation to U.S. source income.* Any deduction that, but for paragraph (b) of this section, would have been allocated or apportioned to foreign source section 951A category income for purposes of section 904 is instead allocated to U.S. source income for all purposes of section 904 (*reallocated deduction*). Thus, for example, a reallocated deduction is allocated to U.S. source income for purposes of determining a loss from sources within the United States under section 904(f)(5)(D) and a domestic loss under section 904(g)(2)(B). Similarly, a reallocated deduction is treated as allocated or apportioned to U.S. source income for purposes of applying other rules where section 904 is the operative section, for example, in assigning interest income from a downstream partnership loan under § 1.861–9(e)(8) or upstream partnership loan under § 1.861–9(e)(9).

(d) *Examples.* The following examples illustrate the application of this section.

(1) *Example 1: Section 986(c) loss—(i) Facts.* USP is a domestic corporation that uses the U.S. dollar as its functional currency. USP owns all the shares of the only class of stock of CFC, a controlled foreign corporation that uses the British pound (£) as its functional currency. CFC makes a £300x distribution of money with respect to its stock. The distribution is a dividend (as defined in section 316), determined without regard to section 959(d). All of CFC's previously taxed earnings and profits (*PTEP*) result from USP's income inclusions under sections 951(a)(1)(A) and 951A in the taxable year of the distribution. The income inclusion under section 951(a)(1)(A) is general category income. The table below shows CFC's PTEP immediately before the distribution (which reflects adjustments for income inclusions under sections 951(a)(1)(A) and 951A in the taxable year of the distribution). The spot rate on the date of the distribution is $1 = £0.8. The average exchange rate in the year of the inclusion is $1 = £0.75.

TABLE 1 TO PARAGRAPH (d)(1)(i) OF THIS SECTION

PTEP from section 951(a)(1)(A) inclusion (section 951(a)(1)(A) PTEP)		PTEP from section 951A inclusion (section 951A PTEP)	
Foreign source	U.S. source	Foreign source	U.S. source
£0	£100x	£200x	£200x

(ii) *Analysis.* The distribution is made pro rata from section 951(a)(1)(A) PTEP and section 951A PTEP. Therefore, £240x (£300x × £400x/£500x) is assigned to section 951A PTEP of which £120x is foreign source (£240x × £200x/£400x). Under section 986(c), USP is required to recognize foreign currency gain or loss on the distribution of PTEP. Foreign currency gain or loss recognized under section 986(c) is assigned to the separate category or categories of the PTEP from which the distribution is made. § 1.904–4(p). The section 986(c) gain or loss is from the same source as the associated income inclusion. Section 986(c)(1). USP's section 986(c) loss with respect to the distribution of foreign source section 951A PTEP is determined by translating the PTEP into U.S. dollars using the spot rate on the date of the distribution (£120x × $1/£0.8 = $150x) and then subtracting from that U.S. dollar amount the dollar basis of the PTEP (£120x × $1/£0.75 = $160x). Thus, USP's section 986(c) loss with respect to the distribution of foreign source section 951A PTEP is $10x ($150x − $160x). The section 986(c) loss of $10x is directly allocable to foreign source section 951A category income.

(2) *Example 2: Reallocation of Deductions*—(i) *Facts.* USP is a domestic corporation that owns all the stock of a controlled foreign corporation. USP chooses to claim

foreign tax credits for the taxable year and all prior taxable years. USP has no loss carried back to the taxable year from a subsequent taxable year. USP's deductions that would have been allocated and apportioned to foreign source section 951A category income but for section 904(b)(5) consist of interest expense and supportive deductions. After allocation and apportionment of all deductions except interest expense and supportive deductions, USP has $100x of U.S. source income, $60x of foreign source section 951A category income, and $50x of foreign source general category income (within the meaning of section 904(d)(1)(D)). USP has $100x of interest expense, $10x of which is allocated and apportioned to foreign source general category income and, before taking into account section 904(b)(5), $50x of which would be allocated and apportioned to U.S. source income and $40x of which would be allocated and apportioned to foreign source section 951A category income. USP also has $50x of supportive deductions, $20x of which is allocated and apportioned to foreign source general category income and, before taking into account section 904(b)(5), $20x of which would be allocated and apportioned to U.S. source income and $10x of which would be allocated and apportioned to foreign source section 951A category income.

(ii) *Analysis.* But for section 904(b)(5), USP would have U.S. source income of $30x ($100x − $50x − $20x), foreign source section 951A category income of $10x ($60x − $40x − $10x), and foreign source general category income of $20x ($50x − $10x − $20x). The $40x of interest expense and $10x of supportive deductions which, but for section 904(b)(5), would have been allocated and apportioned to foreign source section 951A category income are reallocated deductions. Under paragraph (c) of this section, the reallocated deductions are allocated to U.S. source income. After the allocation of reallocated deductions, USP has a $20x loss from sources within the United States within the meaning of section 904(f)(5)(D) ($30x − $50x), foreign source section 951A category income of $60x, and foreign source general category income of $20x. The $20x loss is a domestic loss within the meaning of section 904(g)(2)(B). Under section 904(f)(5)(D), the $20x loss reduces USP's foreign source section 951A category income and foreign source general category income on a pro rata basis. As a result, USP's foreign source section 951A category income is $45x ($60x − $20x × $60x/$80x) and USP's foreign source general category income is $15x ($20x − $20x × $20x/$80x). The $20x domestic loss also results in an overall domestic loss within the meaning of section 904(g)(2)(A) (ODL) of $20x. In later years, the ODL causes USP's U.S. source income to be treated as foreign source income in accordance with section 904(g) and the regulations thereunder.

(3) *Example 3: Reallocation of Deductions*—(i) *Facts.* USP is a domestic corporation that owns all the stock of a controlled foreign corporation. USP chooses to claim foreign tax credits for the taxable year. After allocation and apportionment of all deductions except reallocated deductions, USP has $500x of U.S. source income and $100x of foreign source section 951A category income. USP has a reallocated deduction of $400x that would have been allocated to foreign source section 951A category income but for section 904(b)(5).

(ii) *Analysis.* But for section 904(b)(5)(B) and (C), the reallocated deduction of $400x would have created a separate limitation loss of $300x with respect to the income category described in section 904(d)(1)(A) (section 951A category). Under the rules in paragraph (c) of this section, all $400x is allocated to U.S. source income, reducing U.S. source income to $100x. USP has no separate limitation loss with respect to the section 951A category.

(4) *Example 4: Research and Experimental Expenditures*—(i) *Facts.* USP is a domestic corporation that owns all the stock of a controlled foreign corporation. USP deducted research and experimental expenditures under section 174A for the taxable year. Before taking into account section 904(b)(5), all of the research and experimental expenditures would be allocated to foreign source income.

(ii) *Analysis.* No amount of the research and experimental expenditures is a reallocated deduction because, before taking into account section 904(b)(5), none of the research and experimental expenditures would have been allocated or apportioned to foreign source section 951A category income. *See* § 1.861–17(b)(2). Therefore, none of the research and experimental expenditures is allocated to U.S. source income under section 904(b)(5).

(e) *Applicability date.* This section applies to taxable years beginning after December 31, 2025.

■ **Par. 7.** Section 1.904(g)–3(c) is amended by revising the section heading to read as follows:

Step Two: Section 904(b)(2) and (4) adjustments.

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Frank J. Bisignano,

Chief Executive Officer.

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DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 294

RIN 0596–AD66

Special Areas; Roadless Area Conservation

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: The U.S. Department of Agriculture (USDA or Department) is extending the public comment period for the proposed rule titled *Special Areas; Roadless Area Conservation,* published in the **Federal Register** on August 20, 2026 (91 FR 53827). The notice of proposed rulemaking invited public comment on the proposed rule, the associated draft environmental impact statement, and cost benefit analysis, which were published simultaneously. The original comment period is scheduled to close on September 21, 2026. The Department is extending the comment period by 15 days to allow the public additional time to submit comments. The new deadline for comments is October 6, 2026.

DATES: Comments on the proposed rule published August 20, 2026 (91 FR 53827), must be received by October 6, 2026.

ADDRESSES: Comments, identified by RIN 0596–AD66, should be sent via one of the following methods:

- *Electronically (preferred):* Through the Federal eRulemaking Portal, *https://www.regulations.gov,* identified by docket number FS–2025–0001 or RIN 0596–AD66. Follow the instructions for sending comments; or
- *Mail:* Hardcopy letters must be submitted to the Director, Ecosystem Management Coordination, 201 14th Street SW, Mailstop 1108, Washington, DC 20250–1124.

Comments should be confined to issues pertinent to the proposed rule, should explain the reasons for any recommended changes, and should reference the specific section and wording being addressed, where