

Sec.	
962.	Election by individuals to be subject to tax at corporate rates.
[963.	Repealed.]
964.	Miscellaneous provisions.
965.	Temporary dividends received deduction.

## AMENDMENTS

2004—Pub. L. 108-357, title IV, § 422(c), Oct. 22, 2004, 118 Stat. 1519, added item 965.

1996—Pub. L. 104-188, title I, § 1501(c), Aug. 20, 1996, 110 Stat. 1826, which directed that the analysis for subpart F be amended by striking item 956A, could not be executed, because item 956A “Earnings invested in excess passive assets” had been editorially supplied.

1986—Pub. L. 99-514, title XII, § 1221(b)(3)(E), Oct. 22, 1986, 100 Stat. 2553, substituted “Insurance income” for “Income from insurance of United States risks” in item 953.

1975—Pub. L. 94-12, title VI, § 602(a)(3)(A), (c)(7), (d)(3)(B), Mar. 29, 1975, 89 Stat. 58, 60, 64, struck out existing item 955 and replaced it with an identical item 955 and struck out item 963 “Receipt of minimum distributions by domestic corporations”.

1962—Pub. L. 87-834, § 12(a), Oct. 16, 1962, 76 Stat. 1006, added heading of subpart F, and items 951-964.

### § 951. Amounts included in gross income of United States shareholders

#### (a) Amounts included

##### (1) In general

If a foreign corporation is a controlled foreign corporation for an uninterrupted period of 30 days or more during any taxable year, every person who is a United States shareholder (as defined in subsection (b)) of such corporation and who owns (within the meaning of section 958(a)) stock in such corporation on the last day, in such year, on which such corporation is a controlled foreign corporation shall include in his gross income, for his taxable year in which or with which such taxable year of the corporation ends—

(A) the sum of—

(i) his pro rata share (determined under paragraph (2)) of the corporation’s subpart F income for such year,

(ii) his pro rata share (determined under section 955(a)(3) as in effect before the enactment of the Tax Reduction Act of 1975) of the corporation’s previously excluded subpart F income withdrawn from investment in less developed countries for such year, and

(iii) his pro rata share (determined under section 955(a)(3)) of the corporation’s previously excluded subpart F income withdrawn from foreign base company shipping operations for such year; and

(B) the amount determined under section 956 with respect to such shareholder for such year (but only to the extent not excluded from gross income under section 959(a)(2)).

##### (2) Pro rata share of subpart F income

The pro rata share referred to in paragraph (1)(A)(i) in the case of any United States shareholder is the amount—

(A) which would have been distributed with respect to the stock which such shareholder owns (within the meaning of section 958(a)) in such corporation if on the last day, in its taxable year, on which the corporation

is a controlled foreign corporation it had distributed pro rata to its shareholders an amount (i) which bears the same ratio to its subpart F income for the taxable year, as (ii) the part of such year during which the corporation is a controlled foreign corporation bears to the entire year, reduced by

(B) the amount of distributions received by any other person during such year as a dividend with respect to such stock, but only to the extent of the dividend which would have been received if the distribution by the corporation had been the amount (i) which bears the same ratio to the subpart F income of such corporation for the taxable year, as (ii) the part of such year during which such shareholder did not own (within the meaning of section 958(a)) such stock bears to the entire year.

For purposes of subparagraph (B), any gain included in the gross income of any person as a dividend under section 1248 shall be treated as a distribution received by such person with respect to the stock involved.

##### (3) Limitation on pro rata share of previously excluded subpart F income withdrawn from investment

For purposes of paragraph (1)(A)(iii), the pro rata share of any United States shareholder of the previously excluded subpart F income of a controlled foreign corporation withdrawn from investment in foreign base company shipping operations shall not exceed an amount—

(A) which bears the same ratio to his pro rata share of such income withdrawn (as determined under section 955(a)(3)) for the taxable year, as

(B) the part of such year during which the corporation is a controlled foreign corporation bears to the entire year.

##### (b) United States shareholder defined

For purposes of this subpart, the term “United States shareholder” means, with respect to any foreign corporation, a United States person (as defined in section 957(c)) who owns (within the meaning of section 958(a)), or is considered as owning by applying the rules of ownership of section 958(b), 10 percent or more of the total combined voting power of all classes of stock entitled to vote of such foreign corporation.

##### (c) Coordination with passive foreign investment company provisions

If, but for this subsection, an amount would be included in the gross income of a United States shareholder for any taxable year both under subsection (a)(1)(A)(i) and under section 1293 (relating to current taxation of income from certain passive foreign investment companies), such amount shall be included in the gross income of such shareholder only under subsection (a)(1)(A).

(Added Pub. L. 87-834, § 12(a), Oct. 16, 1962, 76 Stat. 1006; amended Pub. L. 94-12, title VI, § 602(a)(3)(B), (c)(3), (4), (d)(2), Mar. 29, 1975, 89 Stat. 58, 62; Pub. L. 94-455, title XIX, § 1901(a)(119), Oct. 4, 1976, 90 Stat. 1784; Pub. L. 98-369, div. A, title I, § 132(c)(1), title VIII, § 801(d)(4), July 18, 1984, 98 Stat. 666, 996; Pub. L. 99-514, title XII, § 1235(c), title XVIII, § 1876(c)(2),

Oct. 22, 1986, 100 Stat. 2574, 2898; Pub. L. 100-647, title I, §1012(i)(15), Nov. 10, 1988, 102 Stat. 3510; Pub. L. 103-66, title XIII, §§13231(a), 13232(c), Aug. 10, 1993, 107 Stat. 495, 502; Pub. L. 104-188, title I, §1501(a)(1), Aug. 20, 1996, 110 Stat. 1825; Pub. L. 105-34, title XI, §1112(a)(1), Aug. 5, 1997, 111 Stat. 969; Pub. L. 108-357, title IV, §413(c)(16), Oct. 22, 2004, 118 Stat. 1508; Pub. L. 110-172, §11(g)(13), Dec. 29, 2007, 121 Stat. 2490.)

## REFERENCES IN TEXT

The Tax Reduction Act of 1975, referred to in subsec. (a)(1)(A)(ii), is Pub. L. 94-12, Mar. 29, 1975, 89 Stat. 26, as amended, which was enacted Mar. 29, 1975. For complete classification of this Act to the Code, see Short Title of 1975 Amendment note set out under section 1 of this title and Tables.

## AMENDMENTS

2007—Subsecs. (c), (d). Pub. L. 110-172 redesignated subsec. (d) as (c) and struck out heading and text of former subsec. (c). Text read as follows:

“(1) IN GENERAL.—The foreign trade income of a FSC and any deductions which are apportioned or allocated to such income shall not be taken into account under this subpart.

“(2) FOREIGN TRADE INCOME.—For purposes of this subsection, the term ‘foreign trade income’ has the meaning given such term by section 923(b), but does not include section 923(a)(2) non-exempt income (within the meaning of section 927(d)(6)).”

2004—Subsecs. (c) to (f). Pub. L. 108-357 redesignated subsecs. (e) and (f) as (c) and (d), respectively, and struck out former subsecs. (c) and (d), which related to coordination of provisions with election of a foreign investment company to distribute income and coordination with foreign personal holding company provisions, respectively.

1997—Subsec. (a)(2). Pub. L. 105-34 inserted concluding provisions “For purposes of subparagraph (B), any gain included in the gross income of any person as a dividend under section 1248 shall be treated as a distribution received by such person with respect to the stock involved.”

1996—Subsec. (a)(1)(A) to (C). Pub. L. 104-188 inserted “and” at end of subpar. (A), substituted period for “; and” at end of subpar. (B), and struck out subpar. (C) which read as follows: “the amount determined under section 956A with respect to such shareholder for such year (but only to the extent not excluded from gross income under section 959(a)(3)).”

1993—Subsec. (a)(1)(B). Pub. L. 103-66, §13232(c)(1), substituted “the amount determined under section 956 with respect to such shareholder for such year (but only to the extent not excluded from gross income under section 959(a)(2)); and” for “his pro rata share (determined under section 956(a)(2)) of the corporation’s increase in earnings invested in United States property for such year (but only to the extent not excluded from gross income under section 959(a)(2)); and”.

Subsec. (a)(1)(C). Pub. L. 103-66, §13231(a), added subpar. (C).

Subsec. (a)(4). Pub. L. 103-66, §13232(c)(2), struck out heading and text of par. (4). Text read as follows: “For purposes of paragraph (1)(B), the pro rata share of any United States shareholder in the increase of the earnings of a controlled foreign corporation invested in United States property shall not exceed an amount (A) which bears the same ratio to his pro rata share of such increase (as determined under section 956(a)(2)) for the taxable year, as (B) the part of such year during which the corporation is a controlled foreign corporation bears to the entire year.”

1988—Subsec. (b). Pub. L. 100-647 substituted “section 957(c)” for “section 957(d)”.

1986—Subsec. (e)(1). Pub. L. 99-514, §1876(c)(2), struck out last sentence which read as follows: “For purposes of the preceding sentence, income described in para-

graph (2) or (3) of section 921(d) shall be treated as derived from sources within the United States.”

Subsec. (f). Pub. L. 99-514, §1235(c), added subsec. (f).  
1984—Subsec. (d). Pub. L. 98-369, §132(c)(1), amended subsec. (d) generally, substituting provision that, if a United States shareholder is required to include in gross income an amount under both subsec. (a)(1)(A)(ii) of this section and section 551(b) of this title, such amount be included only under subsec. (a)(1)(A)(ii) of this section for provision that, if a United States shareholder is subject to tax under section 551(b) of this title, such shareholder not be required to include as gross income any amount under subsec. (a) of this section.

Subsec. (e). Pub. L. 98-369, §801(d)(4), added subsec. (e).

1976—Subsec. (a)(1). Pub. L. 94-455 struck out “beginning after December 31, 1962” after “during any taxable year”.

1975—Subsec. (a)(1)(A)(i). Pub. L. 94-12, §602(a)(3)(B), struck out “except as provided in section 963,” before “his pro rata share”.

Subsec. (a)(1)(A)(ii). Pub. L. 94-12, §602(c)(3), substituted “(determined under section 955(a)(3) as in effect before the enactment of the Tax Reduction Act of 1975)” for “(determined under section 955(a)(3))”.

Subsec. (a)(1)(A)(iii). Pub. L. 94-12, §602(d)(2)(A), added cl. (iii).

Subsec. (a)(3). Pub. L. 94-12, §602(c)(4), (d)(2)(B), substituted “paragraph (i)(A)(iii)” for “paragraph (1)(A)(ii)” and “foreign base company shipping operations” for “less developed countries”.

## EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to taxable years of foreign corporations beginning after Dec. 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end, see section 413(d)(1) of Pub. L. 108-357, set out as an Effective and Termination Dates of 2004 Amendments note under section 1 of this title.

## EFFECTIVE DATE OF 1997 AMENDMENT

Section 1112(a)(2) of Pub. L. 105-34 provided that: “The amendment made by paragraph (1) [amending this section] shall apply to dispositions after the date of the enactment of this Act [Aug. 5, 1997].”

## EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-188 applicable to taxable years of foreign corporations beginning after Dec. 31, 1996, and to taxable years of United States shareholders within which or with which such taxable years of foreign corporations end, see section 1501(d) of Pub. L. 104-188, set out as a note under section 904 of this title.

## EFFECTIVE DATE OF 1993 AMENDMENT

Section 13231(e) of Pub. L. 103-66 provided that: “The amendments made by this section [enacting section 956A of this title and amending this section and sections 959, 989, 1293, 1296, and 1297 of this title] shall apply to taxable years of foreign corporations beginning after September 30, 1993, and to taxable years of United States shareholders in which or with which such taxable years of foreign corporations end.”

Section 13232(d) of Pub. L. 103-66 provided that: “The amendments made by this section [amending this section and section 956 of this title] shall apply to taxable years of controlled foreign corporations beginning after September 30, 1993, and to taxable years of United States shareholders in which or with which such taxable years of controlled foreign corporations end.”

## EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

## EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1235(c) of Pub. L. 99-514 applicable to taxable years of foreign corporations beginning after Dec. 31, 1986, see section 1235(h) of Pub. L. 99-514, set out as an Effective Date note under section 1291 of this title.

Amendment by section 1876(c)(2) of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

## EFFECTIVE DATE OF 1984 AMENDMENT

Section 132(d)(2)(A) of Pub. L. 98-369 provided that: "The amendment made by paragraph (1) of subsection (c) [amending this section] shall apply to taxable years of United States shareholders beginning after the date of the enactment of this Act [July 18, 1984]."

Amendment by section 801(d)(4) of Pub. L. 98-369 applicable to transactions after Dec. 31, 1984, in taxable years ending after such date, see section 805(a)(1) of Pub. L. 98-369, as amended, set out as a note under section 245 of this title.

## EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-12 applicable to taxable years of foreign corporations beginning after Dec. 31, 1975, and to taxable years of United States shareholders (within the meaning of 951(b) of this title) within which or with which such taxable years of such foreign corporations end, see section 602(f) of Pub. L. 94-12, set out as an Effective Date note under section 955 of this title.

## EFFECTIVE DATE

Section 12(c) of Pub. L. 87-834 provided that: "The amendments made by this section [enacting this section and sections 952 to 964 and 970 to 972 of this title and amending sections 901, 904, and 1016 of this title] shall apply with respect to taxable years of foreign corporations beginning after December 31, 1962, and to taxable year of United States shareholders within which or with which such taxable years of such foreign corporations end."

PLAN AMENDMENTS NOT REQUIRED UNTIL  
JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101-1147 and 1171-1177] or title XVIII [§§ 1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

**§ 952. Subpart F income defined****(a) In general**

For purposes of this subpart, the term "subpart F income" means, in the case of any controlled foreign corporation, the sum of—

- (1) insurance income (as defined under section 953),
- (2) the foreign base company income (as determined under section 954),
- (3) an amount equal to the product of—
  - (A) the income of such corporation other than income which—
    - (i) is attributable to earnings and profits of the foreign corporation included in the gross income of a United States person under section 951 (other than by reason of this paragraph), or
    - (ii) is described in subsection (b),

multiplied by

(B) the international boycott factor (as determined under section 999),

(4) the sum of the amounts of any illegal bribes, kickbacks, or other payments (within the meaning of section 162(c)) paid by or on behalf of the corporation during the taxable year of the corporation directly or indirectly to an official, employee, or agent in fact of a government, and

(5) the income of such corporation derived from any foreign country during any period during which section 901(j) applies to such foreign country.

The payments referred to in paragraph (4) are payments which would be unlawful under the Foreign Corrupt Practices Act of 1977 if the payor were a United States person. For purposes of paragraph (5), the income described therein shall be reduced, under regulations prescribed by the Secretary, so as to take into account deductions (including taxes) properly allocable to such income.

**(b) Exclusion of United States income**

In the case of a controlled foreign corporation, subpart F income does not include any item of income from sources within the United States which is effectively connected with the conduct by such corporation of a trade or business within the United States unless such item is exempt from taxation (or is subject to a reduced rate of tax) pursuant to a treaty obligation of the United States. For purposes of this subsection, any exemption (or reduction) with respect to the tax imposed by section 884 shall not be taken into account.

**(c) Limitation****(1) In general****(A) Subpart F income limited to current earnings and profits**

For purposes of subsection (a), the subpart F income of any controlled foreign corporation for any taxable year shall not exceed the earnings and profits of such corporation for such taxable year.

**(B) Certain prior year deficits may be taken into account****(i) In general**

The amount included in the gross income of any United States shareholder under section 951(a)(1)(A)(i) for any taxable year and attributable to a qualified activity shall be reduced by the amount of such shareholder's pro rata share of any qualified deficit.

**(ii) Qualified deficit**

The term "qualified deficit" means any deficit in earnings and profits of the controlled foreign corporation for any prior taxable year which began after December 31, 1986, and for which the controlled foreign corporation was a controlled foreign corporation; but only to the extent such deficit—

(I) is attributable to the same qualified activity as the activity giving rise to the income being offset, and