

Pension Fund,
Plumbers' Local
Union Numbered
775.

SEC. 11. The Pension Fund, Plumbers' Local Union Numbered 775, which was created May 1, 1957, as a result of an agreement between Plumbers' Local Union Numbered 775, of Suffolk County, New York, affiliated with the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, and the Suffolk County Plumbing and Heating Contractors Association, Inc., and which has been held by the Internal Revenue Service to constitute a qualified trust under section 401(a) of the Internal Revenue Code of 1954, and to be exempt from taxation under section 501(a) of such Code, shall be held and considered to have been a qualified trust under such section 401(a), and to have been exempt from taxation under such section 501(a), for the period beginning May 1, 1957, and ending May 11, 1959, but only if it is shown to the satisfaction of the Secretary of the Treasury or his delegate that the trust has not in this period been operated in a manner which would jeopardize the interests of its beneficiaries.

Approved September 14, 1960.

26 USC 401.

26 USC 501.

Public Law 86-780

September 14, 1960
[H. R. 10087]

AN ACT

To amend the Internal Revenue Code of 1954 to permit taxpayers to elect an overall limitation on the foreign tax credit.

IRC 1954, a-
mendment.
Foreign tax
credit.

68A Stat. 287.
26 USC 904.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 904 of the Internal Revenue Code of 1954 (relating to limitation on foreign tax credit) is amended by striking out subsection (a) and inserting in lieu thereof the following new subsections:

“(a) ALTERNATIVE LIMITATIONS.—

“(1) PER-COUNTRY LIMITATION.—In the case of any taxpayer who does not elect the limitation provided by paragraph (2), the amount of the credit in respect of the tax paid or accrued to any foreign country or possession of the United States shall not exceed the same proportion of the tax against which such credit is taken which the taxpayer's taxable income from sources within such country or possession (but not in excess of the taxpayer's entire taxable income) bears to his entire taxable income for the same taxable year.

“(2) OVERALL LIMITATION.—In the case of any taxpayer who elects the limitation provided by this paragraph, the total amount of the credit in respect of taxes paid or accrued to all foreign countries and possessions of the United States shall not exceed the same proportion of the tax against which such credit is taken which the taxpayer's taxable income from sources without the United States (but not in excess of the taxpayer's entire taxable income) bears to his entire taxable income for the same taxable year.

“(b) ELECTION OF OVERALL LIMITATION.—

“(1) IN GENERAL.—A taxpayer may elect the limitation provided by subsection (a)(2) for any taxable year beginning after December 31, 1960. An election under this paragraph for any taxable year shall remain in effect for all subsequent taxable years, except that it may be revoked with the consent of the Secretary or his delegate with respect to any taxable year.

"(2) ELECTION AFTER REVOCATION.—If a taxpayer has made an election under paragraph (1) and such election has been revoked, such taxpayer shall not be eligible to make a new election under paragraph (1) for any taxable year, unless the Secretary or his delegate consents to such new election.

"(3) FORM AND TIME OF ELECTION AND REVOCATION.—An election under paragraph (1), and any revocation of such an election, may be made only in such manner as the Secretary or his delegate may by regulations prescribe. Such an election or revocation with respect to any taxable year may be made or changed at any time before the expiration of the period prescribed for making a claim for credit or refund of the tax imposed by this chapter for such taxable year."

(b) Subsection (b) of such section 904 is amended—

68A Stat. 288.

(1) by striking out "(b)" at the beginning and inserting in lieu thereof "(c)"; and

(2) by striking out "the limitation under subsection (a)" and inserting in lieu thereof "the applicable limitation under subsection (a)".

(c) Subsection (c) of such section 904 is amended—

72 Stat. 1639.

(1) by striking out "(c)" at the beginning and inserting in lieu thereof "(d)"; and

(2) by striking out "the limitation under subsection (a)" each place it appears in the first sentence and inserting in lieu thereof "the applicable limitation under subsection (a)".

(d) Such section 904 is amended by adding at the end thereof the following new subsections:

72 Stat. 1639.

"(e) CARRYBACKS AND CARRYOVERS WHERE OVERALL LIMITATION IS ELECTED.—

"(1) FOREIGN TAXES TO BE AGGREGATED FOR PURPOSES OF SUBSECTION (d).—With respect to each taxable year of the taxpayer to which the limitation provided by subsection (a)(2) applies, the taxes referred to in the first sentence of subsection (d) shall, for purposes of applying such first sentence, be aggregated on an overall basis (rather than taken into account on a per-country basis).

"(2) FOREIGN TAXES MAY NOT BE CARRIED FROM PER-COUNTRY YEAR TO OVERALL YEAR OR FROM OVERALL YEAR TO PER-COUNTRY YEAR.—No amount paid or accrued for any taxable year to which the limitation provided by subsection (a)(1) applies shall (except for purposes of determining the number of taxable years which have elapsed) be deemed paid or accrued under subsection (d) in any taxable year to which the limitation provided by subsection (a)(2) applies. No amount paid or accrued for any taxable year to which the limitation provided by subsection (a)(2) applies shall (except for purposes of determining the number of taxable years which have elapsed) be deemed paid or accrued under subsection (d) in any taxable year to which the limitation provided by subsection (a)(1) applies.

"(f) CROSS REFERENCE.—

"For special rule relating to the application of the credit provided by section 901 in the case of affiliated groups which include Western Hemisphere trade corporations for years in which the limitation provided by subsection (a)(2) applies, see section 1503(d)."

SEC. 2. Section 1503 of the Internal Revenue Code of 1954 (relating to computation and payment of tax in case of consolidated returns) is amended by adding at the end thereof the following new subsection:

68A Stat. 367.

“(d) SPECIAL RULE FOR APPLICATION OF FOREIGN TAX CREDIT WHEN OVERALL LIMITATION APPLIES.—

“(1) IN GENERAL.—If the affiliated group includes one or more Western Hemisphere trade corporations (as defined in section 921), and if for the taxable year an election under section 904(b) (1) (relating to election of overall limitation on foreign tax credit) is in effect, then the amount of taxes paid or accrued to foreign countries and possessions of the United States by such Western Hemisphere trade corporations which may be taken into account for purposes of section 901 shall be reduced by the amount (if any) by which—

“(A) the amount of such taxes (or, if smaller, the amount of the tax which would be computed under subsection (a), if such corporations were not Western Hemisphere trade corporations, with respect to the portion of the consolidated taxable income attributable to such corporations), exceeds

“(B) the amount of the tax computed under subsection (a) with respect to the portion of the consolidated taxable income attributable to such corporations.

“(2) ADJUSTMENT IN CASE OF CERTAIN PUBLIC UTILITIES.—So much of any reduction under paragraph (1) as is attributable to taxes paid or accrued to foreign countries and possessions of the United States by one or more corporations which are both Western Hemisphere trade corporations and regulated public utilities shall be decreased by the excess of—

“(A) the amount of tax computed under subsection (a) with respect to the portion of the consolidated taxable income attributable to income derived, by the corporations in the affiliated group which are not Western Hemisphere trade corporations, from sources within the foreign countries referred to in paragraph (3) (B), over

“(B) the amount of taxes paid or accrued to such foreign countries by the corporations referred to in subparagraph (A).

This paragraph shall apply only if the corporations described in subparagraph (A) derive 80 percent or more, of the gross income (computed without regard to capital gains and losses) which they derive from sources within the foreign countries described in paragraph (3) (B), from regulated public utilities and from operations as regulated public utilities.

“(3) SPECIAL RULES.—

“(A) For purposes of paragraph (2), a corporation is a regulated public utility only if it is a regulated public utility within the meaning of subparagraph (A) (other than clauses (ii) and (iii) thereof) or (D) of subsection (c) (1). For purposes of the preceding sentence, subsection (c) (2) shall be applied as if subsection (c) (1) were limited to subparagraphs (A) (i) and (D) thereof.

“(B) For purposes of paragraph (2), the foreign countries referred to in this subparagraph include only any country from which any public utility referred to in the first sentence of paragraph (2) derives the principal part of its income.

“(C) For purposes of paragraph (1) (A), the amount of tax which would be computed with respect to the portion of the consolidated taxable income attributable to any corporation or corporations shall be determined without regard to the increase of 2 percent provided in subsection (a).”

68A Stat. 290.
Ante, p. 1010.

68A Stat. 285.

SEC. 3. (a) Subsections (a) and (b) of section 901 of the Internal Revenue Code of 1954 (relating to taxes of foreign countries and of possessions of the United States) are each amended by striking out "the limitation of section 904" and inserting in lieu thereof "the applicable limitation of section 904".

68A Stat. 285.

(b) The second sentence of subsection (a) of such section 901 is amended to read as follows: "Such choice for any taxable year may be made or changed at any time before the expiration of the period prescribed for making a claim for credit or refund of the tax imposed by this chapter for such taxable year."

(c) Section 6501 of such Code (relating to limitations on assessments and collections) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

72 Stat. 1663.

"(i) FOREIGN TAX CARRYBACKS.—In the case of a deficiency attributable to the application to the taxpayer of a carryback under section 904(d) (relating to carryback and carryover of excess foreign taxes), such deficiency may be assessed at any time before the expiration of one year after the expiration of the period within which a deficiency may be assessed for the taxable year of the excess taxes described in section 904(d) which result in such carryback."

Ante, p. 1011.

SEC. 4. The amendments made by the first section, section 2, and subsection (a) of section 3 of this Act shall apply with respect to taxable years beginning after December 31, 1960. The amendment made by subsection (b) of section 3 of this Act shall apply with respect to taxable years beginning after December 31, 1953, and ending after August 16, 1954. The amendments made by subsection (c) of section 3 of this Act shall apply with respect to taxable years beginning after December 31, 1957.

SEC. 5. Any amount received after December 31, 1949, and before October 1, 1955, from a corporation which—

(1) was formed exclusively for the purpose of, and was engaged exclusively in, operating without profit a scientific laboratory for the Atomic Energy Commission, and

(2) operated solely on funds appropriated to the Atomic Energy Commission,

by an individual as reimbursement for moving himself and his immediate family, household goods, and personal effects to a new place of residence in order to accept employment with such corporation shall, for Federal income tax purposes, be treated as an amount which was not includible in the gross income of the individual, to the extent that such amount did not exceed the actual expenses paid or incurred by the individual for such purposes, if the individual was advised, at the time of his employment, by an authorized officer, employee, or agent of such corporation that the amount of such reimbursement would not be includible in gross income. If refund or credit of any overpayment resulting from the application of this section is prevented on the date of enactment of this Act, or within six months after such date, by the operation of any law or rule of law (other than chapter 74 of the Internal Revenue Code of 1954, relating to closing agreements and compromises, and the corresponding provisions of prior law), refund or credit of such overpayment may, nevertheless, be made or allowed if claim therefor is filed within six months after such date. No interest shall be paid or allowed on any overpayment resulting from the application of the preceding sentence.

68A Stat. 849.

68A Stat. 731.

72 Stat. 1656.

SEC. 6. (a) Subpart A of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1954 (relating to information concerning persons subject to special provisions) is amended by renumbering section 6038 as 6039, and by inserting after section 6037 the following new section:

"SEC. 6038. INFORMATION WITH RESPECT TO CERTAIN FOREIGN CORPORATIONS.

"(a) REQUIREMENT.—

"(1) **IN GENERAL.**—A domestic corporation shall furnish, with respect to any foreign corporation which it controls (within the meaning of subsection (c)(1)) and with respect to any foreign subsidiary of any such foreign corporation (within the meaning of subsection (c)(2)), such information as the Secretary or his delegate may prescribe by regulations relating to—

"(A) the name, the principal place of business, and the nature of business of such foreign corporation or foreign subsidiary, and the country under whose laws incorporated;

"(B) the accumulated profits (as defined in section 902(c)) of such foreign corporation or foreign subsidiary, including the items of income (whether or not included in gross income under chapter 1), deductions (whether or not allowed in computing taxable income under chapter 1), and any other items taken into account in computing such accumulated profits;

"(C) a balance sheet for such foreign corporation or foreign subsidiary, listing assets, liabilities, and capital;

"(D) transactions between such foreign corporation or foreign subsidiary and—

"(i) any foreign corporation controlled by the domestic corporation,

"(ii) any foreign subsidiary of a foreign corporation controlled by the domestic corporation, and

"(iii) the domestic corporation or any shareholder of the domestic corporation owning at the time the transaction takes place 10 percent or more of the value of any class of stock outstanding of the domestic corporation; and

"(E) a description of the various classes of stock outstanding, and a list showing the name and address of, and number of shares held by, each citizen or resident of the United States and each domestic corporation who is a shareholder of record owning at any time during the annual accounting period 5 percent or more in value of any class of stock outstanding of such foreign corporation or foreign subsidiary.

"(2) PERIOD FOR WHICH INFORMATION IS TO BE FURNISHED, ETC.—

The information required under paragraph (1) shall be furnished—

"(A) in the case of a foreign corporation, for its annual accounting period ending with or within the domestic corporation's taxable year, and

"(B) in the case of any foreign subsidiary of such foreign corporation, for such subsidiary's annual accounting period ending with or within such foreign corporation's annual accounting period described in subparagraph (A).

The information required under this subsection shall be furnished at such time and in such manner as the Secretary or his delegate shall by regulations prescribe.

68A Stat. 286.

"(3) LIMITATION.—No information shall be required to be furnished under this subsection with respect to any foreign corporation or foreign subsidiary for any annual accounting period unless such information was required to be furnished under regulations in effect on the first day of such annual accounting period.

"(b) EFFECT OF FAILURE TO FURNISH INFORMATION.—If a domestic corporation fails to furnish, within the time prescribed under paragraph (2) of subsection (a), any information with respect to any foreign corporation or foreign subsidiary required under paragraph (1) of subsection (a), then, in applying section 902 (relating to foreign tax credit for corporate stockholder in foreign corporation) to such domestic corporation (or to any person who acquires from any person any portion of the interest of such domestic corporation in any such foreign corporation or foreign subsidiary, but only to the extent of such portion) for any taxable year, the amount of taxes paid or deemed paid by each foreign corporation and foreign subsidiary with respect to which the domestic corporation is required to furnish information during the annual accounting period or periods with respect to which such information is required under such paragraph (2) of subsection (a) shall be reduced by 10 percent. If such failure continues 90 days or more after notice by the Secretary or his delegate to the domestic corporation, then the amount of the reduction under this subsection shall be 10 percent plus an additional 5 percent for each 3-month period, or fraction thereof, during which such failure to furnish information continues after the expiration of such 90-day period. No taxes shall be reduced under this subsection more than once for the same failure. For purposes of this subsection, the time prescribed under paragraph (2) of subsection (a) to furnish information (and the beginning of the 90-day period after notice by the Secretary) shall be treated as being not earlier than the last day on which (as shown to the satisfaction of the Secretary or his delegate) reasonable cause existed for failure to furnish such information.

68A Stat. 286.

"(c) CONTROL, ETC.—For purposes of this section—

"(1) If at any time during its taxable year a domestic corporation owns more than 50 percent of the voting stock of a foreign corporation, it shall be deemed to be in control of such foreign corporation.

"(2) If at any time during its annual accounting period a foreign corporation owns more than 50 percent of the voting stock of another foreign corporation, such other corporation shall be considered a foreign subsidiary of the corporation owning such stock.

"(d) ANNUAL ACCOUNTING PERIOD.—For purposes of this section, the annual accounting period of a foreign corporation or of a foreign subsidiary is the annual period on the basis of which such foreign corporation or such foreign subsidiary regularly computes its income in keeping its books.

"(e) CROSS REFERENCE.—

"For provisions relating to penalties for violations of this section, see section 7203."

(b) (1) The table of sections for such subpart is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 6038. Information with respect to certain foreign corporations.

"Sec. 6039. Cross references."

68A Stat. 286.

(2) Section 902 of the Internal Revenue Code of 1954 (relating to credit for corporate stockholder in foreign corporation) is amended by adding at the end thereof the following new subsection:

“(e) CROSS REFERENCE.—

“For reduction of credit with respect to dividends paid out of accumulated profits for years for which certain information is not furnished, see section 6038.”

Ante, p. 1014.

68A Stat. 747.

(c) The amendments made by subsections (a) and (b) shall apply to taxable years of domestic corporations beginning after December 31, 1960, with respect to information relating to a foreign corporation or a foreign subsidiary described in section 6038(a) of the Internal Revenue Code of 1954 (as added by subsection (a)) for its annual accounting periods beginning after December 31, 1960.

SEC. 7. (a) Section 6046 of the Internal Revenue Code of 1954 (relating to information returns as to formation or reorganization of foreign corporations) is amended to read as follows:

“SEC. 6046. RETURNS AS TO CREATION OR ORGANIZATION, OR REORGANIZATION, OF FOREIGN CORPORATIONS.

“(a) GENERAL RULE.—On or before the 90th day after the creation or organization, or reorganization, of any foreign corporation—

“(1) Each United States citizen or resident who was an officer or director of the corporation at any time within 60 days after the creation or organization, or reorganization thereof, and

“(2) Each United States shareholder of the corporation by or for whom, at any time within 60 days after the creation or organization or reorganization of the corporation, 5 percent or more in value of the stock of the corporation then outstanding was owned directly or indirectly (including, in the case of an individual, stock owned by members of his family),

shall make a return in compliance with the provisions of subsection (b).

“(b) FORM AND CONTENTS OF RETURNS.—The returns required by subsection (a) shall be in such form and shall set forth, in respect of the foreign corporation, such information as the Secretary or his delegate prescribes by forms or regulations as necessary for carrying out the provisions of the income tax laws.

“(c) MEANING OF TERMS.—For the purpose of this section—

“(1) UNITED STATES SHAREHOLDER.—The term ‘United States shareholder’ includes a citizen or resident of the United States, a domestic corporation, a domestic partnership or an estate or trust (other than an estate or trust the gross income of which under subtitle A includes only income from sources within the United States).

“(2) MEMBERS OF FAMILY.—The family of an individual shall be considered as including only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

“(d) CROSS REFERENCE.—

“For provisions relating to penalties for violations of this section, see section 7203.”

(b) The table of sections for subpart B of part III of chapter 61 of the Internal Revenue Code of 1954 is amended by striking out the last item and inserting in lieu thereof the following:

“Sec. 6046. Returns as to creation or organization, or reorganization, of foreign corporations.”

Applicability.

SEC. 8. The amendments made by section 7 shall apply only with respect to foreign corporations created or organized, or reorganized, after the date of the enactment of this Act.

Approved September 14, 1960.