

(b) Application with sections 275(a)(4) and 78

Section 275(a)(4) and section 78 shall not apply to any amount of taxes denied credit under subsection (a).

(Added Pub. L. 94-455, title X, § 1061(a), Oct. 4, 1976, 90 Stat. 1649; amended Pub. L. 115-97, title I, § 14301(c)(28), Dec. 22, 2017, 131 Stat. 2224.)

Editorial Notes**AMENDMENTS**

2017—Subsec. (a). Pub. L. 115-97 struck out “902 or” after “or under section” in introductory provisions.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 2017 AMENDMENT**

Amendment by Pub. L. 115-97 applicable to taxable years of foreign corporations beginning after Dec. 31, 2017, and to taxable years of United States shareholders in which or with which such taxable years of foreign corporations end, see section 14301(d) of Pub. L. 115-97, set out as a note under section 78 of this title.

EFFECTIVE DATE

Pub. L. 94-455, title X, § 1066(a), Oct. 4, 1976, 90 Stat. 1654, provided that:

“(1) GENERAL RULE.—The amendments made by this part (other than by section 1065) [enacting this section and section 999 of this title and amending sections 952 and 995 of this title] apply to participation in or cooperation with an international boycott more than 30 days after the date of enactment of this Act [Oct. 4, 1976].

“(2) EXISTING CONTRACTS.—In the case of operations which constitute participation in or cooperation with an international boycott and which are carried out in accordance with the terms of a binding contract entered into before September 2, 1976, the amendments made by this part (other than by section 1065) apply to such participation or cooperation after December 31, 1977.”

§ 909. Suspension of taxes and credits until related income taken into account**(a) In general**

If there is a foreign tax credit splitting event with respect to a foreign income tax paid or accrued by the taxpayer, such tax shall not be taken into account for purposes of this title before the taxable year in which the related income is taken into account under this chapter by the taxpayer.

(b) Special rules with respect to specified 10-percent owned foreign corporations

If there is a foreign tax credit splitting event with respect to a foreign income tax paid or accrued by a specified 10-percent owned foreign corporation (as defined in section 245A(b) without regard to paragraph (2) thereof), such tax shall not be taken into account—

- (1) for purposes of section 960, or
- (2) for purposes of determining earnings and profits under section 964(a),

before the taxable year in which the related income is taken into account under this chapter by such specified 10-percent owned foreign corporation or a domestic corporation which is a United States shareholder with respect to such specified 10-percent owned foreign corporation.

(c) Special rules

For purposes of this section—

(1) Application to partnerships, etc.

In the case of a partnership, subsections (a) and (b) shall be applied at the partner level. Except as otherwise provided by the Secretary, a rule similar to the rule of the preceding sentence shall apply in the case of any S corporation or trust.

(2) Treatment of foreign taxes after suspension

In the case of any foreign income tax not taken into account by reason of subsection (a) or (b), except as otherwise provided by the Secretary, such tax shall be so taken into account in the taxable year referred to in such subsection (other than for purposes of section 986(a)) as a foreign income tax paid or accrued in such taxable year.

(d) Definitions

For purposes of this section—

(1) Foreign tax credit splitting event

There is a foreign tax credit splitting event with respect to a foreign income tax if the related income is (or will be) taken into account under this chapter by a covered person.

(2) Foreign income tax

The term “foreign income tax” means any income, war profits, or excess profits tax paid or accrued to any foreign country or to any possession of the United States.

(3) Related income

The term “related income” means, with respect to any portion of any foreign income tax, the income (or, as appropriate, earnings and profits) to which such portion of foreign income tax relates.

(4) Covered person

The term “covered person” means, with respect to any person who pays or accrues a foreign income tax (hereafter in this paragraph referred to as the “payor”)—

(A) any entity in which the payor holds, directly or indirectly, at least a 10 percent ownership interest (determined by vote or value),

(B) any person which holds, directly or indirectly, at least a 10 percent ownership interest (determined by vote or value) in the payor,

(C) any person which bears a relationship to the payor described in section 267(b) or 707(b), and

(D) any other person specified by the Secretary for purposes of this paragraph.

(e) Regulations

The Secretary may issue such regulations or other guidance as is necessary or appropriate to carry out the purposes of this section, including regulations or other guidance which provides—

- (1) appropriate exceptions from the provisions of this section, and

- (2) for the proper application of this section with respect to hybrid instruments.

(Added Pub. L. 111-226, title II, § 211(a), Aug. 10, 2010, 124 Stat. 2394; amended Pub. L. 115-97, title I, § 14301(c)(29), (30), Dec. 22, 2017, 131 Stat. 2224.)

Editorial Notes

AMENDMENTS

2017—Subsec. (b). Pub. L. 115-97, §14301(c)(29)(A), (C), (D), substituted “specified 10-percent owned foreign corporations” for “section 902 corporations” in heading, “specified 10-percent owned foreign corporation (as defined in section 245A(b) without regard to paragraph (2) thereof)” for “section 902 corporation” in introductory provisions, and “by such specified 10-percent owned foreign corporation or a domestic corporation which is a United States shareholder with respect to such specified 10-percent owned foreign corporation..” for “by such section 902 corporation or a domestic corporation which meets the ownership requirements of subsection (a) or (b) of section 902 with respect to such section 902 corporation.” in concluding provisions.

Subsec. (b)(1). Pub. L. 115-97, §14301(c)(29)(B), struck out “902 or” after “for purposes of section”.

Subsec. (d)(5). Pub. L. 115-97, §14301(c)(30), struck out par. (5). Text read as follows: “The term ‘section 902 corporation’ means any foreign corporation with respect to which one or more domestic corporations meets the ownership requirements of subsection (a) or (b) of section 902.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-97 applicable to taxable years of foreign corporations beginning after Dec. 31, 2017, and to taxable years of United States shareholders in which or with which such taxable years of foreign corporations end, see section 14301(d) of Pub. L. 115-97, set out as a note under section 78 of this title.

EFFECTIVE DATE

Pub. L. 111-226, title II, §211(c), Aug. 10, 2010, 124 Stat. 2395, provided that: “The amendments made by this section [enacting this section] shall apply to—

“(1) foreign income taxes (as defined in section 909(d) of the Internal Revenue Code of 1986, as added by this section) paid or accrued in taxable years beginning after December 31, 2010; and

“(2) foreign income taxes (as so defined) paid or accrued by a [former] section 902 corporation (as so defined) in taxable years beginning on or before such date (and not deemed paid under section 902(a) or 960 of such Code on or before such date), but only for purposes of applying sections 902 and 960 with respect to periods after such date.

Section 909(b)(2) of the Internal Revenue Code of 1986, as added by this section, shall not apply to foreign income taxes described in paragraph (2).”

SUBPART B—EARNED INCOME OF CITIZENS OR RESIDENTS OF UNITED STATES

| | |
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| Sec. | |
| 911. | Citizens or residents of the United States living abroad. |
| 912. | Exemption for certain allowances. |
| [913.] | Repealed.] |

Editorial Notes

AMENDMENTS

1981—Pub. L. 97-34, title I, §§111(b)(1), 112(b)(1), Aug. 13, 1981, 95 Stat. 194, 195, substituted “Citizens or residents of the United States living abroad” for “Income earned by individuals in certain camps or from charitable services” in item 911 and struck out item 913 “Deduction for certain expenses of living abroad”.

1980—Pub. L. 96-595, §4(c)(2), Dec. 24, 1980, 94 Stat. 3467, inserted “or from charitable services” after “camps” in item 911.

1978—Pub. L. 95-615, §§202(g)(2), (3), 203(c), formerly §§202(f)(2), (3), 203(c), Nov. 8, 1978, 92 Stat. 3100, 3106, re-

numbered Pub. L. 96-222, title I, §108(a)(1)(A), Apr. 1, 1980, 94 Stat. 223, inserted in subpart heading “or Residents” after “Citizens”, substituted in item 911 “Income earned by individuals in certain camps” for “Earned income from sources without the United States”, and added item 913.

§911. Citizens or residents of the United States living abroad**(a) Exclusion from gross income**

At the election of a qualified individual (made separately with respect to paragraphs (1) and (2)), there shall be excluded from the gross income of such individual, and exempt from taxation under this subtitle, for any taxable year—

- (1) the foreign earned income of such individual, and
- (2) the housing cost amount of such individual.

(b) Foreign earned income**(1) Definition**

For purposes of this section—

(A) In general

The term “foreign earned income” with respect to any individual means the amount received by such individual from sources within a foreign country or countries which constitute earned income attributable to services performed by such individual during the period described in subparagraph (A) or (B) of subsection (d)(1), whichever is applicable.

(B) Certain amounts not included in foreign earned income

The foreign earned income for an individual shall not include amounts—

- (i) received as a pension or annuity,
- (ii) paid by the United States or an agency thereof to an employee of the United States or an agency thereof,
- (iii) included in gross income by reason of section 402(b) (relating to taxability of beneficiary of nonexempt trust) or section 403(c) (relating to taxability of beneficiary under a nonqualified annuity), or
- (iv) received after the close of the taxable year following the taxable year in which the services to which the amounts are attributable are performed.

(2) Limitation on foreign earned income**(A) In general**

The foreign earned income of an individual which may be excluded under subsection (a)(1) for any taxable year shall not exceed the amount of foreign earned income computed on a daily basis at an annual rate equal to the exclusion amount for the calendar year in which such taxable year begins.

(B) Attribution to year in which services are performed

For purposes of applying subparagraph (A), amounts received shall be considered received in the taxable year in which the services to which the amounts are attributable are performed.

(C) Treatment of community income

In applying subparagraph (A) with respect to amounts received from services performed