

(A) the time and place for the production of the documentation,

(B) a statement of the reason the documentation previously produced (if any) is not sufficient,

(C) a description of the documentation being sought, and

(D) the consequences to the taxpayer of the failure to produce the documentation described in subparagraph (C).

**(2) Proceeding to quash**

**(A) In general**

Notwithstanding any other law or rule of law, any person to whom a formal document request is mailed shall have the right to begin a proceeding to quash such request not later than the 90th day after the day such request was mailed. In any such proceeding, the Secretary may seek to compel compliance with such request.

**(B) Jurisdiction**

The United States district court for the district in which the person (to whom the formal document request is mailed) resides or is found shall have jurisdiction to hear any proceeding brought under subparagraph (A). An order denying the petition shall be deemed a final order which may be appealed.

**(C) Suspension of 90-day period**

The running of the 90-day period referred to in subsection (a) shall be suspended during any period during which a proceeding brought under subparagraph (A) is pending.

**(d) Definitions and special rules**

For purposes of this section—

**(1) Foreign-based documentation**

The term “foreign-based documentation” means any documentation which is outside the United States and which may be relevant or material to the tax treatment of the examined item.

**(2) Documentation**

The term “documentation” includes books and records.

**(3) Authority to extend 90-day period**

The Secretary, and any court having jurisdiction over a proceeding under subsection (c)(2), may extend the 90-day period referred to in subsection (a).

**(e) Suspension of statute of limitations**

If any person takes any action as provided in subsection (c)(2), the running of any period of limitations under section 6501 (relating to the assessment and collection of tax) or under section 6531 (relating to criminal prosecutions) with respect to such person shall be suspended for the period during which the proceeding under such subsection, and appeals therein, are pending.

(Added Pub. L. 97-248, title III, §337(a), Sept. 3, 1982, 96 Stat. 629; amended Pub. L. 98-369, div. A, title VII, §714(k), July 18, 1984, 98 Stat. 963.)

**Editorial Notes**

AMENDMENTS

1984—Subsec. (d)(3), (4). Pub. L. 98-369 redesignated par. (4) as (3) and struck out former par. (3) which pro-

vided that an item was to be treated as foreign connected if directly or indirectly from a source outside the United States, or the item (in whole or in part) purported to arise outside the United States, or was otherwise dependent on transactions occurring outside the United States.

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248, to which such amendment relates, see section 715 of Pub. L. 98-369, set out as a note under section 31 of this title.

EFFECTIVE DATE

Pub. L. 97-248, title III, §337(c), Sept. 3, 1982, 96 Stat. 630, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendments made by this section [enacting this section] shall apply with respect to formal document requests (as defined in section 982(c)(1) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], as added by this section) mailed after the date of the enactment of this Act [Sept. 3, 1982].”

SUBPART J—FOREIGN CURRENCY TRANSACTIONS

Sec.

- 985. Functional currency.
- 986. Determination of foreign taxes and foreign corporation's earnings and profits.
- 987. Branch transactions.
- 988. Treatment of certain foreign currency transactions.
- 989. Other definitions and special rules.

**Editorial Notes**

AMENDMENTS

1988—Pub. L. 100-647, title I, §1012(v)(1)(C), Nov. 10, 1988, 102 Stat. 3529, added item 986 and struck out former item 986 “Determination of foreign corporation's earnings and profits and foreign taxes”.

**§ 985. Functional currency**

**(a) In general**

Unless otherwise provided in regulations, all determinations under this subtitle shall be made in the taxpayer's functional currency.

**(b) Functional currency**

**(1) In general**

For purposes of this subtitle, the term “functional currency” means—

(A) except as provided in subparagraph (B), the dollar, or

(B) in the case of a qualified business unit, the currency of the economic environment in which a significant part of such unit's activities are conducted and which is used by such unit in keeping its books and records.

**(2) Functional currency where activities primarily conducted in dollars**

The functional currency of any qualified business unit shall be the dollar if activities of such unit are primarily conducted in dollars.

**(3) Election**

To the extent provided in regulations, the taxpayer may elect to use the dollar as the functional currency for any qualified business unit if—

(A) such unit keeps its books and records in dollars, or

(B) the taxpayer uses a method of accounting that approximates a separate transactions method.

Any such election shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

**(4) Change in functional currency treated as a change in method of accounting**

Any change in the functional currency shall be treated as a change in the taxpayer's method of accounting for purposes of section 481 under procedures to be established by the Secretary.

(Added Pub. L. 99-514, title XII, §1261(a), Oct. 22, 1986, 100 Stat. 2585.)

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE**

Pub. L. 99-514, title XII, §1261(e), Oct. 22, 1986, 100 Stat. 2591, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [enacting this subpart and amending sections 1092 and 1256 of this title] shall apply to taxable years beginning after December 31, 1986.

“(2) SPECIAL RULES FOR PURPOSES OF SECTIONS 902 AND 960.—For purposes of applying sections [former] 902 and 960 of the Internal Revenue Code of 1986, the amendments made by this section shall apply to—

“(A) earnings and profits of the foreign corporation for taxable years beginning after December 31, 1986, and

“(B) foreign taxes paid or accrued by the foreign corporation with respect to such earnings and profits.”

**§ 986. Determination of foreign taxes and foreign corporation's earnings and profits**

**(a) Foreign income taxes**

**(1) Translation of accrued taxes**

**(A) In general**

For purposes of determining the amount of the foreign tax credit, in the case of a taxpayer who takes foreign income taxes into account when accrued, the amount of any foreign income taxes (and any adjustment thereto) shall be translated into dollars by using the average exchange rate for the taxable year to which such taxes relate.

**(B) Exception for certain taxes**

Subparagraph (A) shall not apply to any foreign income taxes—

(i) paid after the date 2 years after the close of the taxable year to which such taxes relate, or

(ii) paid before the beginning of the taxable year to which such taxes relate.

**(C) Exception for inflationary currencies**

Subparagraph (A) shall not apply to any foreign income taxes the liability for which is denominated in any inflationary currency (as determined under regulations).

**(D) Elective exception for taxes paid other than in functional currency**

**(i) In general**

At the election of the taxpayer, subparagraph (A) shall not apply to any foreign in-

come taxes the liability for which is denominated in any currency other than in the taxpayer's functional currency.

**(ii) Application to qualified business units**

An election under this subparagraph may apply to foreign income taxes attributable to a qualified business unit in accordance with regulations prescribed by the Secretary.

**(iii) Election**

Any such election shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

**(E) Special rule for regulated investment companies**

In the case of a regulated investment company which takes into account income on an accrual basis, subparagraphs (A) through (D) shall not apply and foreign income taxes paid or accrued with respect to such income shall be translated into dollars using the exchange rate as of the date the income accrues.

**(F) Cross reference**

**For adjustments where tax is not paid within 2 years, see section 905(c).**

**(2) Translation of taxes to which paragraph (1) does not apply**

For purposes of determining the amount of the foreign tax credit, in the case of any foreign income taxes to which subparagraph (A) or (E) of paragraph (1) does not apply—

(A) such taxes shall be translated into dollars using the exchange rates as of the time such taxes were paid to the foreign country or possession of the United States, and

(B) any adjustment to the amount of such taxes shall be translated into dollars using—

(i) except as provided in clause (ii), the exchange rate as of the time when such adjustment is paid to the foreign country or possession, or

(ii) in the case of any refund or credit of foreign income taxes, using the exchange rate as of the time of the original payment of such foreign income taxes.

**(3) Authority to permit use of average rates**

To the extent prescribed in regulations, the average exchange rate for the period (specified in such regulations) during which the taxes or adjustment is paid may be used instead of the exchange rate as of the time of such payment.

**(4) Foreign income taxes**

For purposes of this subsection, the term “foreign income taxes” means any income, war profits, or excess profits taxes paid or accrued to any foreign country or to any possession of the United States.

**(b) Earnings and profits and distributions**

For purposes of determining the tax under this subtitle—

(1) of any shareholder of any foreign corporation, the earnings and profits of such corporation shall be determined in the corporation's functional currency, and