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## **Internal Revenue Code Section 904(c)**

### Limitation on credit

(a) Limitation.

The total amount of the credit taken under section 901(a) 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) Taxable income for purpose of computing limitation.

(1) Personal exemptions.

For purposes of subsection (a) , the taxable income in the case of an individual, estate, or trust shall be computed without any deduction for personal exemptions under section 151 or 642(b) .

(2) Capital gains.

For purposes of this section -

(A) In general. Taxable income from sources outside the United States shall include gain from the sale or exchange of capital assets only to the extent of foreign source capital gain net income.

(B) Special rules where capital gain rate differential. In the case of any taxable year for which there is a capital gain rate differential-

(i) in lieu of applying subparagraph (A) , the taxable income from sources outside the United States shall include gain from the sale or exchange of capital assets only in an amount equal to foreign source capital gain net income reduced by the rate differential portion of foreign source net capital gain,

(ii) the entire taxable income shall include gain from the sale or exchange of capital assets only in an amount equal to capital gain net income reduced by the rate differential portion of net capital gain, and

(iii) for purposes of determining taxable income from sources outside the United States, any net capital loss (and any amount which is a short-term capital loss under section 1212(a) ) from sources outside the United States to the extent taken into account in determining capital gain net income for the taxable year shall be reduced by an amount equal to the rate differential portion of the excess of net capital gain from sources within the United States over net capital gain.

(C) Coordination with capital gains rates. The Secretary may by regulations modify the application of this paragraph and paragraph (3) to the extent necessary to properly reflect any capital gain rate differential under section 1(h) and the computation of net capital gain.

(3) Definitions.

For purposes of this subsection -

(A) Foreign source capital gain net income. The term "foreign source capital gain net income" means the lesser of-

- (i) capital gain net income from sources without the United States, or
- (ii) capital gain net income.

(B) Foreign source net capital gain. The term "foreign source net capital gain" means the lesser of-

- (i) net capital gain from sources without the United States, or
- (ii) net capital gain.

(C) Section 1231 gains. The term "gain from the sale or exchange of capital assets" includes any gain so treated under section 1231 .

(D) Capital gain rate differential. There is a capital gain rate differential for any year if subsection (h) of section 1 applies to such taxable year.

(E) Rate differential portion. The rate differential portion of foreign source net capital gain, net capital gain, or the excess of net capital gain from sources within the United States over net capital gain, as the case may be, is the same proportion of such amount as-

- (i) the excess of-
  - (I) the highest rate of tax set forth in subsection (a) , (b) , (c) , (d) , or (e) of section 1 (whichever applies), over
  - (II) the alternative rate of tax determined under section 1(h) , bears to

- (ii) that rate referred to in subclause (I) .

(4) Treatment of dividends for which deduction is allowed under section 245A.

For purposes of subsection (a), in the case of a domestic corporation which is a United States shareholder with respect to a specified 10-percent owned foreign corporation, such shareholder's taxable income from sources without the United States (and entire taxable income) shall be determined without regard to-

(A) the foreign-source portion of any dividend received from such foreign corporation, and

(B) any deductions properly allocable or apportioned to-

(i) income (other than amounts includible under section 951(a)(1) or 951A(a) ) with respect to stock of such specified 10-percent owned foreign corporation, or

(ii) such stock to the extent income with respect to such stock is other than amounts includible under section 951(a)(1) or 951A(a) .

Any term which is used in section 245A and in this paragraph shall have the same meaning for purposes of this paragraph as when used in such section.



(c) Carryback and carryover of excess tax paid.

Any amount by which all taxes paid or accrued to foreign countries or possessions of the United States for any taxable year for which the taxpayer chooses to have the benefits of this subpart exceed the limitation under subsection (a) shall be deemed taxes paid or accrued to foreign countries or possessions of the United States in the first preceding taxable year and in any of the first 10 succeeding taxable years, in that order and to the extent not deemed taxes paid or accrued in a prior taxable year, in the amount by which the limitation under subsection (a) for such preceding or succeeding taxable year exceeds the sum of the taxes paid or accrued to foreign countries or possessions of the United States for such preceding or succeeding taxable year and the amount of the taxes for any taxable year earlier than the current taxable year which shall be deemed to have been paid or accrued in such preceding or subsequent taxable year (whether or not the taxpayer chooses to have the benefits of this subpart with respect to such earlier taxable year). Such amount deemed paid or accrued in any year may be availed of only as a tax credit and not as a deduction and only if the taxpayer for such year chooses to have the benefits of this subpart as to taxes paid or accrued for that year to foreign countries or possessions of the United States. This subsection shall not apply to taxes paid or accrued with respect to amounts described in subsection (d)(1)(A).

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