

foreign income taxes actually paid and deemed paid by a domestic shareholder that receives a dividend from a first-tier corporation. Foreign income taxes deemed paid by a domestic shareholder under paragraph (b) of this section shall be deemed paid by the domestic shareholder only for purposes of computing the foreign tax credit allowed under section 901.

(4) *Foreign mineral income.* Certain foreign income, war profits and excess profits taxes paid or accrued with respect to foreign mineral income will not be considered foreign income taxes for purposes of section 902. See section 901(e) and § 1.901-3.

(5) *Foreign taxes paid or accrued in connection with the purchase or sale of certain oil and gas.* Certain income, war profits, or excess profits taxes paid or accrued to a foreign country in connection with the purchase and sale of oil or gas extracted in that country will not be considered foreign income taxes for purposes of section 902. See section 901(f).

(6) *Foreign oil and gas extraction income.* For rules relating to reduction of the amount of foreign income taxes deemed paid with respect to foreign oil and gas extraction income, see section 907(a) and the regulations under that section.

(7) *United States shareholders of controlled foreign corporations.* See paragraph (d) of this section and sections 960 and 962 and the regulations under those sections for special rules relating to the application of section 902 in computing foreign income taxes deemed paid by United States shareholders of controlled foreign corporations.

(8) *Credit for foreign taxes deemed paid in a section 304 transaction.* [Reserved].

(9) *Effect of section 482 adjustments on post-1986 foreign income taxes and post-1986 undistributed earnings.* For rules concerning the effect of a section 482 adjustment on post-1986 foreign income taxes and post-1986 undistributed earnings, see section 905(c) and the regulations under that section.

(d) *Dividends from controlled foreign corporations—(1) General rule.* Except as provided in paragraph (d)(3) of this section, if a dividend is received by a domestic shareholder that is a United States shareholder (as defined in section 951(b) or section 953(c)(1)(A)) from a first-tier corporation that is a controlled foreign corporation (as defined in section 957(a) or section 953(c)(1)(B)), or by an upper-tier corporation from a lower-tier corporation if the corporations are related look-through

entities within the meaning of § 1.904-5(i), the following rule applies. If a dividend is paid out of post-1986 undistributed earnings or pre-1987 accumulated profits of the upper- or lower-tier controlled foreign corporation attributable to more than one separate category under section 904(d), the amount of foreign income taxes deemed paid by the domestic shareholder or the upper-tier corporation under section 902 and paragraph (b) of this section shall be computed separately with respect to the post-1986 undistributed earnings or pre-1987 accumulated profits in each separate category out of which the dividend is paid. See § 1.904-5(c)(4) and paragraph (d)(2) of this section. The separately computed deemed paid taxes shall be added to other taxes paid by the U.S. shareholder or upper-tier corporation with respect to income in the appropriate separate category.

(2) *Look-through—(i) Dividends.* Except as otherwise provided in paragraph (d)(3) of this section, any dividend distribution out of post-1986 undistributed earnings of a look-through entity to a related look-through entity shall be deemed to be paid pro rata out of each separate category of income. See § 1.904-5(c)(4) and § 1.904-7. The portion of the foreign income taxes attributable to a particular separate category that shall be deemed paid by the domestic shareholder or upper-tier corporation must be computed under the following formula:

Foreign taxes deemed paid by domestic shareholder or upper-tier corporation with respect to a separate category under section 904(d) = Post-1986 foreign income taxes of first-tier or lower-tier corporation allocated and apportioned to a separate category under § 1.904-6 × Dividend amount attributable to a separate category Post-1986 undistributed earnings of first-tier or lower-tier corporation attributable to the separate category

(ii) *Coordination with section 960.* For purposes of coordinating the computation of foreign taxes deemed paid with respect to amounts included in gross income pursuant to section 951(a) and dividends distributed by a controlled foreign corporation, see section 960 and the regulations under that section.

(3) *Special rules—(i) Dividends distributed out of earnings accumulated before a controlled foreign corporation became a controlled foreign corporation.* Any dividend distributed by a controlled foreign corporation out of earnings accumulated before the controlled foreign corporation became a controlled foreign corporation shall be

treated as a dividend from a noncontrolled section 902 corporation regardless of whether the earnings were accumulated in a taxable year beginning before January 1, 1987, or after December 31, 1986.

(ii) *Dividend distributions out of earnings and profits for a year during which a shareholder that is currently a more-than-90-percent United States shareholder of a controlled foreign corporation was not a United States shareholder of the controlled foreign corporation.* A dividend shall be treated as a dividend from a noncontrolled section 902 corporation, and the look-through rules of section 904(d)(3) and § 1.904-5 shall not apply if the following conditions are met—

(A) The dividend is distributed by a controlled foreign corporation attributable to earnings and profits of a taxable year during which it was a controlled foreign corporation;

(B) The distribution is received by an upper-tier controlled foreign corporation or a United States shareholder and at the time the upper-tier controlled foreign corporation or the United States shareholder receives the distribution, the United States shareholder owns directly or indirectly within the meaning of sections 958 and 318 and the regulations under those sections, more than 90 percent of the total combined voting power of all classes of stock entitled to vote of the distributing controlled foreign corporation; and

(C) The more than 90 percent United States shareholder was not a United States shareholder at the time the distributed earnings and profits were accumulated by the controlled foreign corporation (the pre-acquisition period).

(iii) *Intra-group acquisitions.* If, however, the dividend recipient is a member of an affiliated group within the meaning of section 1504(a) without regard to section 1504(b)(3) and acquired its interest in the controlled foreign corporation from a member or members of the affiliated group, and the previous owner or owners were entitled to look-through treatment on distributions from the controlled foreign corporation, then the dividend recipient also shall be entitled to look-through treatment on distributions out of pre-acquisition period earnings and profits.

(iv) *Ordering rule.* The determination whether a distribution from a controlled foreign corporation is attributable to earnings and profits accumulated before the corporation was a controlled foreign corporation or during the pre-acquisition period shall be made on a last-in first-out (LIFO) basis. Thus, for example, a distribution shall be deemed