

made from the earnings and profits attributable to the period after the United States shareholder acquired more than 90 percent ownership in an existing controlled foreign corporation (post-acquisition earnings and profits) to the extent of those earnings, and then from the most recently accumulated pre-acquisition earnings and profits. Earnings and profits accumulated in the taxable year in which the corporation became a controlled foreign corporation or the United States shareholder acquired more than 90 percent ownership of the controlled foreign corporation shall be considered earnings and profits accumulated after the corporation became a controlled foreign corporation or the United States shareholder acquired more than 90 percent ownership.

(v) *Examples.* The following examples illustrate the application of this paragraph (d)(3):

Example 1. S is a foreign corporation formed in 1980. S had no domestic shareholders until 1992, when P, a domestic corporation, acquired 60 percent of the stock of S. For 1992 and subsequent years, S is a controlled foreign corporation. In 1992, S has no income and pays a dividend out of prior years' earnings and profits. Pursuant to paragraph (d)(3)(i) of this section, because S was not a controlled foreign corporation before 1992, the dividend to P will be treated as a dividend from a noncontrolled section 902 corporation. Further, because the 10-percent ownership requirement of paragraphs (a)(1) and (a)(2) of this section were not satisfied until 1992, the amount of foreign taxes deemed paid on any distribution out of earnings accumulated before P acquired S's stock will be computed under the rules of section 902 as in effect before the Tax Reform Act of 1986. See §§ 1.902-3 and 1.902-4 and paragraphs (a) (10) and (13) of this section.

Example 2. P, a domestic corporation, owns 100 percent of the stock of U, a

controlled foreign corporation. In 1992, P sells 100 percent of the stock of U to T, an unrelated domestic corporation. U has no income in 1992 and pays a dividend to T out of post-1986 undistributed earnings attributable to prior years. T is not related to P and P's ownership of U will not be attributed to T. The dividend to T in 1992 thus will be treated as a dividend from a noncontrolled section 902 corporation. In 1993, U pays a dividend to T out of post-acquisition earnings and profits. T will be entitled to look-through treatment on the dividend. The amount of foreign taxes deemed paid on each distribution will be computed under the rules of this section.

Example 3. Since its organization in 1980, S, a controlled foreign corporation, has been owned 60 percent by domestic corporation P and 40 percent by domestic corporation R. In 1992, T acquires R's 40 percent interest in the stock of S. S has no income in 1992 and pays a dividend out of prior years' earnings and profits. Paragraph (d)(3)(ii) of this section does not apply because T, which formerly owned no stock in S, acquired only 40 percent of the stock of S. Thus, T is entitled to look-through treatment on the dividend payment out of post-1986 undistributed earnings accumulated in years prior to 1992.

(e) *Information to be furnished.* If the credit for foreign income taxes claimed under section 901 includes foreign income taxes deemed paid under section 902 and paragraph (b) of this section, the domestic shareholder must furnish the same information with respect to the foreign income taxes deemed paid as it is required to furnish with respect to the foreign income taxes it directly paid or accrued and for which the credit is claimed. See § 1.905-2. For other information required to be furnished by the domestic shareholder for the annual accounting period of certain foreign corporations ending with or within the shareholder's taxable year, and for reduction in the amount of foreign income taxes paid, accrued, or

deemed paid for failure to furnish the required information, see section 6038 and the regulations under that section.

(f) *Examples.* The following examples illustrate the application of this § 1.902-1.

Example 1. Since 1987, domestic corporation M has owned 10 percent of the one class of stock of foreign corporation A. The remaining 90 percent of Corporation A's stock is owned by Z, a foreign corporation. Corporation A is not a controlled foreign corporation. Corporation A uses the u as its functional currency, and 1u equals \$1 at all relevant times. Both Corporation A and Corporation M use the calendar year as the taxable year. In 1992, Corporation A pays a 30u dividend out of post-1986 undistributed earnings, 3u to Corporation M and 27u to Corporation Z. Corporation M is deemed, under paragraph (b) of this section, to have paid a portion of the post-1986 foreign income taxes paid by Corporation A and includes the amount of foreign taxes deemed paid in gross income under section 78 as a dividend. Both the foreign taxes deemed paid and the dividend would be subject to a separate limitation for dividends from Corporation A, a noncontrolled 902 corporation. Under paragraph (a)(9)(i) of this section, Corporation A must reduce its post-1986 undistributed earnings as of January 1, 1993, by the total amount of dividends paid to Corporation M and Corporation Z in 1992. Under paragraph (a)(8)(i) of this section, Corporation A must reduce its post-1986 foreign income taxes as of January 1, 1993, by the amount of foreign income taxes that were deemed paid by Corporation M and by the amount of foreign income taxes that would have been deemed paid by Corporation Z had section 902 applied to the dividend paid to Corporation Z. Foreign income taxes deemed paid by Corporation M and Corporation A's opening balances in post-1986 undistributed earnings and post-1986 foreign income taxes for 1993 are computed as follows:

1. Assumed post-1986 undistributed earnings of Corporation A at start of 1992	25u
2. Assumed post-1986 foreign income taxes of Corporation A at start of 1992	\$25
3. Assumed pre-tax earnings and profits of Corporation A for 1992	50u
4. Assumed foreign income taxes paid or accrued by Corporation A in 1992	15u
5. Post-1986 undistributed earnings in Corporation A for 1992 (pre-dividend) (Line 1 plus Line 3 minus Line 4)	60u
6. Post-1986 foreign income taxes in Corporation A for 1992 (pre-dividend) (Line 2 plus Line 4 translated at the appropriate exchange rates)	\$40
7. Dividends paid out of post-1986 undistributed earnings of Corporation A to Corporation M in 1992	3u
8. Percentage of Corporation A's post-1986 undistributed earnings paid to Corporation M (Line 7 divided by Line 5)	5%
9. Foreign income taxes of Corporation A deemed paid by Corporation M under section 902 (a) (Line 6 multiplied by Line 8)	\$2
10. Total dividends paid out of post-1986 undistributed earnings of Corporation A to all shareholders in 1992	30u
11. Percentage of Corporation A's post-1986 undistributed earnings paid to all shareholders in 1992 (Line 10 divided by Line 5)	50%
12. Post-1986 foreign income taxes paid with respect to post-1986 undistributed earnings distributed to all shareholders in 1992 (Line 6 multiplied by Line 11)	\$20
13. Corporation A's post-1986 undistributed earnings at the start of 1993 (Line 5 minus Line 10)	30u
14. Corporation A's post-1986 foreign income taxes at the start of 1993 (Line 6 minus Line 12)	\$20

Example 2. (i) The facts are the same as in *Example 1*, except that Corporation M has also owned 10 percent of the one class of stock of foreign corporation B since 1987. Corporation B uses the calendar year as the taxable year. The remaining 90 percent of

Corporation B's stock is owned by Corporation Z. Corporation B is not a controlled foreign corporation. Corporation B uses the u as its functional currency, and 1u equals \$1 at all relevant times. In 1992, Corporation B has earnings and profits and

pays foreign income taxes, a portion of which are attributable to high withholding tax interest, as defined in section 904(d)(2)(B)(i). Corporation B must reduce its pool of post-1986 foreign income taxes by the amount of tax imposed on high withholding tax interest