

**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 1**

[REG-121509-00]

RIN 1545-AY54

**Exclusion From Gross Income of Previously Taxed Earnings and Profits and Adjustments to Basis of Stock in Controlled Foreign Corporations and of Other Property; Correction****AGENCY:** Internal Revenue Service (IRS), Treasury.**ACTION:** Correction to notice of proposed rulemaking.

**SUMMARY:** This document corrects notice of proposed rulemaking (REG-121509-00) that was published in the **Federal Register** on Tuesday, August 29, 2006 (71 FR 51155). The document contains proposed regulations that provide guidance relating to the exclusion from gross income of previously taxed earnings and profits under section 959 of the Internal Revenue Code (Code) and related basis adjustments under section 961 of the Code.

**FOR FURTHER INFORMATION CONTACT:** Ethan Atticks, (202) 622-3840 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:****Background**

The notice of proposed rulemaking (REG-121509-00) that is the subject of these corrections is under sections 959 and 961 of the Internal Revenue Code.

**Need for Correction**

As published, REG-121509-00 contains errors that may prove to be misleading and are in need of clarification.

**Correction of Publication**

Accordingly, the notice of proposed rulemaking (REG-121509-00), that was the subject of FR Doc. 06-7195, is corrected as follows:

1. On page 51155, column 1, in the preamble, under the paragraph heading "Background", the last paragraph of the column, third line, the language, "sections 959 and 961. Section 959(a)(1)" is corrected to read "sections 959, 961, and 1502. Section 959(a)(1)".

2. On page 51156, column 1, in the preamble, the last paragraph of the column, fifth line from bottom, the language "109-222), which provides for look-" is corrected to read "109-222), which generally provides for look-".

3. On page 51156, column 3, in the preamble, under paragraph heading "2.

Shareholder PTI Accounts", sixth line, the language "directly, or indirectly under section" is corrected to read "directly or indirectly under section".

4. On page 51157, column 1, in the preamble, under paragraph heading "3. Successors in Interest", second paragraph, sixteenth line, the language "corporation from a person that is not a" is corrected to read "corporation from any person, including a person that is not a".

5. On page 51157, column 1, in the preamble, under paragraph heading "B. CFC-Level Exclusion Under Section 959(b)" first line of first paragraph, the language "The earnings and profits of a CFC" is corrected to read "Section 959(b) provides an exclusion pursuant to which the earnings and profits of a CFC".

6. On page 51157, column 1, in the preamble, under paragraph heading "B. CFC-Level Exclusion Under Section 959(b)", first paragraph, third line from the bottom of the paragraph, the language "rules regarding cross-chain sales of" is corrected to read "to provide guidance regarding cross-chain sales of".

7. On page 51157, column 2, in the preamble, first paragraph of the column, ninth line, the language "section 951(a) and a \$100 of non-" is corrected to read "section 951(a) and \$100x of non-".

8. On page 51157, column 2, in the preamble, first paragraph of the column, last line, the language "\$91x ((70% × \$30) + (70% × \$100))." is corrected to read "\$91x ((70% × \$30x) + (70% × \$100x))."

9. On page 51157, column 2, in the preamble, second paragraph of the column, third line, the language "accordingly, provides that, the amount" is corrected to read "accordingly, provides that the amount".

10. On page 51157, column 2, in the preamble, second paragraph of the column, eleventh line, the language "of section 958(a)) in the lower-tier and" is corrected to read "of section 958(a) in the lower-and".

11. On page 51157, column 2, in the preamble, fourth paragraph of the column, seventh line, the language "CFC from a person who was not taxed" is corrected to read "CFC from a person that was not taxed".

12. On page 51157, column 3, in the preamble, first paragraph of the column, eighth line, the language "inclusion is still \$100. In contrast, Prop." is corrected to read "inclusion is still \$100x. In contrast, Prop.".

13. On page 51157, column 3, in the preamble, under the paragraph heading "1. Shareholder-Level Accounting of

PTI", last line of the column, the language "shareholder who owns the stock or by" is corrected to read "shareholder that owns the stock or by".

14. On page 51158, column 2, in the preamble, under the paragraph heading "a. Dollar Basis Pooling Election", first paragraph of the column, ninth to fifteenth lines, the language "to a distribution of PTI. Notice 88-71 (1988-2 C.B. 374) makes this pooled approach available to taxpayers for purposes of section 986(c) at the taxpayer's election, but it does not provide guidance as to how this election is made. The proposed regulations" is corrected to read "to a distribution of PTI. The proposed regulations make this pooled approach available to taxpayers for purposes of section 986(c) at the taxpayer's election. The proposed regulations".

15. On page 51158, column 3, in the preamble, under paragraph heading "4. Adjustment of Shareholder PTI Accounts", second paragraph, tenth line, the language "corporation. Next, a shareholder's PTI" is corrected to read "corporation. Second, a shareholder's PTI".

16. On page 51160, column 1, in the preamble, under paragraph heading "b. Shareholder That Is a Member of a Consolidated Group", first paragraph, seventh line from the bottom of the first paragraph, the language "consolidated group who own stock in" is corrected to read "consolidated group that own stock in".

17. On page 51160, column 1, in the preamble, second paragraph, eleventh line, the language "taxable year who own stock in the" is corrected to read "taxable year that own stock in the".

18. On page 51161, column 3, in the preamble, under paragraph heading "A. Coordination of Shareholder-Level and Corporate-Level Accounts", ninth line, the language "PTI information is to be shared between" is corrected to read "PTI information is to be shared among".

19. On page 51161, column 3, in the preamble, thirteenth line, the language "are necessary, and if so, how they" is corrected to read "are necessary and, if so, how they".

20. On page 51162, column 3, in the preamble, under paragraph heading "F. Section 961(c) Basis Adjustments", first line of the paragraph, the language "Section 961(c) is by its terms only" is corrected to read "Section 961(c) is only".

**§ 1.959-1 [Corrected]**

21. On page 51163, column 3, § 1.959-1(a), second line of the column, the language "except that such

distributions shall” is corrected to read “except that such distribution shall”.

22. On page 51164, column 1, § 1.959–1(b)(2), first paragraph of the column, fifth and sixth lines, the language “any) that are attributable to section 951(a) inclusions.” is corrected to read “any).”.

23. On page 51164, column 1, § 1.959–1(b)(3), second paragraph of the column, third line, the language “income with respect to the previously” is corrected to read “a United States shareholder’s income with respect to the previously”.

24. On page 51164, column 1, § 1.959–1(b)(4)(iii), second line from the bottom of the paragraph, the language “corporations are members of the same” is corrected to read “if both the first mentioned corporation and the covered shareholder are members of the same”.

25. On page 51165, column 1, § 1.959–1(d)(3), second paragraph of the column, first line, the language “The application of this paragraph” is corrected to read “*Examples*. The application of this paragraph”.

26. On page 51165, column 1, § 1.959–1(d)(3), *Example 1.*, paragraph heading, the language “*Shareholder previously taxed earnings and profits account.*” is corrected to read “*Shareholder’s previously taxed earnings and profits account.*”.

27. On page 51165, column 1, § 1.959–1(d)(3)(i), eighth and ninth lines, the language “currency. FC earns \$100x of subpart F income in year 1 and \$100x of non-subpart F” is corrected to read “currency. In year 1, FC earns \$100x of subpart F income and \$100x of non-subpart F”.

#### § 1.959–2 [Corrected]

28. On page 51165, column 2, § 1.959–2(a)(1), fourth line from the bottom of the paragraph, the language “income of such distributee CFC also” is corrected to read “income of such upper-tier CFC also”.

29. On page 51165, column 3, § 1.959–2(a)(2), paragraph (i) of *Example 2.*, second line from the bottom of the paragraph, the language “2, and FC had no earnings for year 2 other” is corrected to read “2, and FC had no earnings and profits for year 2 other”.

30. On page 51165, column 3, § 1.959–2(a)(2), paragraph (ii) of *Example 3.*, eighth and ninth lines, the language “DP’s pro rata share of the remaining \$50, or \$35 (\$50 × 70%), is included in DP’s gross” is corrected to read “DP’s pro rata share of the remaining \$50x, or \$35x (\$50x × 70%), is included in DP’s gross”.

31. On page 51166, column 1, § 1.959–2(a)(2), paragraph (ii) of

*Example 3.*, first paragraph of the column, first line, the language “reduced to \$0, however, as a result of the” is corrected to read “reduced to \$0, as a result of the”.

32. On page 51166, column 1, § 1.959–2(b)(2), third paragraph of the column, first line, the language “The application of this paragraph” is corrected to read “*Example*. The application of this paragraph”.

#### § 1.959–3 [Corrected]

33. On page 51166, column 3, § 1.959–3(b)(3)(i), third paragraph of the column, fifth through twelfth lines, the language “earnings and profits in the year in which such amounts are included in gross income of a United States shareholder under section 951(a) and are reclassified as to category of earnings and profits in the year in which such amounts would be so included but for the provisions of” is corrected to read “earnings and profits in the taxable year of the foreign corporation in which such amounts are included in the gross income of a United States shareholder under section 951(a) and are reclassified as to category of earnings and profits in the taxable year of the foreign corporation in which such amounts would be so included in the gross income of a United States shareholder under section 951(a) but for the provisions of”.

34. On page 51167, column 2, § 1.959–3(c)(1), third paragraph of the column, fourth line, the language “are distributed by a foreign corporation” is corrected to read “are distributed by a foreign corporation to another foreign corporation”.

35. On page 51167, column 2, § 1.959–3(c)(1), fourteenth line, the language “included in the foreign corporation’s” is corrected to read “included in the distributee foreign corporation’s”.

36. On page 51167, column 2, § 1.959–3(c)(2), fourth paragraph of the column, first line, the language “The application of this paragraph” is corrected to read “*Example*. The application of this paragraph”.

37. On page 51172, column 3, § 1.959–3(g)(4), paragraph (i) of *Example 1.*, first paragraph of the column, fourth line from the bottom of the paragraph, the language “earnings and profits on its stock Class A” is corrected to read “earnings and profits on its Class A”.

38. On page 51173, column 3, § 1.959–3(g)(4), paragraph (i) of *Example 5.*, third line, the language “on its stock Class A stock consisting of a” is corrected to read “on its Class A stock consisting of a”.

39. On page 51174, column 3, § 1.959–3(h)(3)(i), third paragraph of the column, fourth line from the bottom of the paragraph, the language “§§ 1.959–1 and this section shall apply” is corrected to read “§ 1.959–1 and this section shall apply”.

40. On page 51175, column 1, § 1.959–3(h)(4)(i), fourth paragraph of the column, fifth line from the bottom of the paragraph, the language “§§ 1.959–1 and this section shall” is corrected to read “§ 1.959–1 and this section shall”.

41. On page 51175, column 1, § 1.959–3(h)(4)(ii), fifth paragraph of the column, first line, the language “The application of this paragraph” is corrected to read “*Example*. The application of this paragraph”.

#### § 1.961–2 [Corrected]

42. On page 51177, column 1, § 1.961–2(d), paragraph (i) of *Example 3.*, third paragraph of the column, third line from the bottom of the paragraph, the language “December 31, of year 1. In year 2, DP has a” is corrected to read “December 31 of year 1. In year 2, DP has a”.

#### § 1.961–3 [Corrected]

43. On page 51177, column 2, § 1.961–3(a)(1), first paragraph of the column, second line from the bottom of the paragraph, the language “shareholders gross income under” is corrected to read “shareholder’s gross income under”.

44. On page 51177, column 3, § 1.961–3(b)(1), third paragraph of the column, twelfth line, the language “than wholly owned by a single United” is corrected to read “than wholly indirectly owned by a single United”.

**LaNita Van Dyke,**

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## DEPARTMENT OF EDUCATION

### 34 CFR Parts 674, 682, and 685

#### Office of Postsecondary Education; Notice of Intent To Establish Negotiated Rulemaking Committees Under Title IV of the Higher Education Act of 1965, as Amended

**AGENCY:** Department of Education.

**ACTION:** Notice of negotiated rulemaking.

**SUMMARY:** The Secretary of Education (Secretary) announces the establishment of a negotiated rulemaking committee to