under section 951(a) to be included in N Corporation's gross income for 1978. For 1978, N Corporation chooses to claim a foreign tax credit for the $20 of foreign income taxes which for such year are paid by A Corporation and deemed paid by N Corporation under section 960(a)(1) and paragraph (c)(1) of § 1.960–1. For 1979, A Corporation distributes the entire $80 of 1978 earnings and profits, a foreign income tax of $8 being withheld therefrom. Although N Corporation does not choose to claim a foreign tax credit for 1979, it may not deduct such $8 of foreign income taxes under section 164. Corporation N may, however, deduct under such section a foreign income tax of $4 which is withheld from a distribution of $40 by A Corporation during 1979 from its 1979 earnings and profits.

[T.D. 7120, 36 FR 10859, June 4, 1971, as amended by T.D. 7649, 44 FR 60089, Oct. 18, 1979]

§ 1.960–6 Overpayments resulting from increase in limitation for taxable year of exclusion.

(a) *Amount of overpayment.* If an increase in the limitation under section 960(b)(1) and § 1.960–4 for a taxable year of exclusion exceeds the tax (determined before allowance of any credits against tax) imposed by chapter 1 of the Code for such year, the amount of such excess shall be deemed an overpayment of tax for such year and shall be refunded or credited to the taxpayer in accordance with chapter 65 (section 6401 and following) of the Code.

(b) *Illustration.* The application of this section may be illustrated by the following example:

Example. Domestic corporation N owns all the one class of stock of controlled foreign corporation A. Both corporations use the calendar year as the taxable year. For 1978, A Corporation has total income of $100,000 on which it pays foreign income taxes of $20,000. All of A Corporation's earnings and profits for 1978 of $80,000 are attributable to an amount which is required under section 951(a) to be included in N Corporation's gross income for 1978. By reason of such income inclusion N Corporation is deemed for 1978 to have paid under section 960(a)(1), and is required under section 78 to include in gross income for such year, the $20,000 ($20,000×$80,000/$80,000) of foreign income taxes paid by A Corporation for such year. Corporation N also derives $100,000 taxable income from sources within the United States for 1978. For 1979, N Corporation has $25,000 of taxable income, all of which is derived from sources within the United States. No part of A Corporation's earnings and profits for 1979 is attributable to an amount required under section 951(a) to be included in N Corporation's gross income. During 1979, A Corporation makes one distribution consisting of its $80,000 earnings and profits for 1978, all of which is excluded under section 959(a)(1) from N Corporation's gross income for 1979, and from which distribution foreign income taxes of $10,000 are withheld. For 1978 and 1979, N Corporation claims the foreign tax credit under section 901, determined by applying the overall limitation under section 904(a)(2). The United States tax of N Corporation is determined as follows for such years, assuming a corporate tax rate of 22 percent, a surtax of 26 percent and a surtax exemption of $25,000:

1978

Taxable income of N Corporation:		
U.S. sources		$100,000
Sources without the U.S.:		
Amount required to be included in N Corporation's gross income under section 951(a)	$80,000	
Foreign income taxes deemed paid by N Corporation under section 960(a)(1) and included in N Corporation's gross income under section 78 ($20,000×$80,000/$80,000)	20,000	100,000
Total taxable income		200,000
U.S. tax payable for 1978:		
U.S. tax before credit ([$200,000×0.22]+[$175,000×0.26])		89,500
Credit: Foreign income taxes of $20,000, but not to exceed overall limitation of $44,750 ($89,500×$100,000/$200,000)		20,000
U.S. tax payable		69,500

1979

Taxable income of N Corporation, consisting of income from U.S. sources		$25,000
U.S. tax before credit ($25,000×0.22)		5,500
Section 904(a)(2) overall limitation for 1979:		
Limitation for 1979 before increase under section 960(b)(1) ($5,500×$0/$25,000)		0
Plus: Increase in overall limitation for 1979 under section 960(b)(1):		
Amount by which 1978 overall limitation was increased by reason of inclusion in N Corporation's gross income under section 951(a) for 1978 ($44,750 − [$41,500 × $0/$100,000])	$44,750	

1979		
Less: Foreign income taxes allowed as a credit for 1978 which were allowable solely by reason of such section 951(a) inclusion ($20,000 − $0) ..	20,000	
Balance	24,750	
But: Such balance not to exceed foreign income taxes paid by N Corporation for 1979 with respect to $80,000 distribution excluded under section 959(a)(1) ($10,000 tax withheld)	10,000	10,000
Overall limitation for 1979		10,000
U.S. tax payable for 1979:		
U.S. tax before credit ($25,000×0.22)		5,500
Credit: Foreign income taxes of $10,000, but not to exceed overall limitation of $10,000 for 1979		10,000
U.S. tax payable		None
Overpayment of tax for 1979:		
Increase in limitation under section 960(b)(1) for 1979		10,000
Less: Tax imposed for 1979 under chapter 1 of the Code		5,500
Excess treated as overpayment		4,500

[T.D. 7120, 36 FR 10859, June 4, 1971, as amended by T.D. 7649, 44 FR 60089, Oct. 18, 1979]

§ 1.960–7 Effective dates.

(a) *General rule.* Except as provided in paragraph (b), the rules contained in §§ 1.960–1—1.960–6 shall apply to taxable years of foreign corporations beginning after December 31, 1962, and taxable years of U.S. corporate shareholders within which or with which the taxable year of such foreign corporation ends.

(b) *Exception for less developed country corporations.* If for any taxable year beginning after December 31, 1962, and before January 1, 1976, a first-tier foreign corporation qualified as a less developed country corporation as defined in 26 CFR 1.902–2 revised as of April 1, 1978, the rules pertaining to less developed country corporations contained in 26 CFR 1.960–1—1.960–6 revised as of April 1, 1978, shall apply to any amounts required to be included in gross income under section 951 for such taxable year.

(c) *Third-tier credit.* The rules contained in §§ 1.960–1—1.960–6 shall apply to amounts included in the gross income of a domestic corporation under section 951 with respect to the earnings and profits of third-tier corporations (as defined in § 1.960–1) in taxable years beginning after December 31, 1976.

[T.D. 7649, 44 FR 60089, Oct. 18, 1979, as amended by T.D. 7843, 47 FR 50484, Nov. 8, 1982]

§ 1.961–1 Increase in basis of stock in controlled foreign corporations and of other property.

(a) *Increase in basis*—(1) *In general.* Except as provided in subparagraph (2) of this paragraph, the basis of a United States shareholder's—

(i) Stock in a controlled foreign corporation; or

(ii) Property (as defined in paragraph (b)(1) of this section) by reason of the ownership of which he is considered under section 958(a)(2) as owning stock in a controlled foreign corporation shall be increased under section 961(a), as of the last day in the taxable year of such corporation on which it is a controlled foreign corporation, by the amount required to be included with respect to such stock or such property in such shareholder's gross income under section 951(a) for his taxable year in which or with which such taxable year of such corporation ends. The increase in basis provided by the preceding sentence shall be made only to the extent to which such amount required to be included in gross income under section 951(a) was so included in gross income.

(2) *Limitation on amount of increase in case of election under section 962.* In the case of a United States shareholder who makes the election under section 962 for the taxable year, the amount of the increase in basis provided by subparagraph (1) of this paragraph shall not exceed the amount of United States tax paid in accordance with such election with respect to the amounts included in such shareholder's gross income under section 951(a) for such year (as determined under § 1.962–1).

(b) *Rules of application*—(1) *Property defined.* The property of a United States shareholder referred to in paragraph (a)(1)(ii) of this section shall consist of—