

Internal Revenue Service, Treasury

§ 1.1291-9

made after March 31, 1995, and before January 27, 1997.

(g) Treatment of holding period.

(h) Election inapplicable to shareholder of former PFIC.

(i) Effective date.

[T.D. 8701, 61 FR 68151, Dec. 27, 1996, as amended by T.D. 8750, 63 FR 13, Jan. 2, 1998]

§ 1.1291-1 Taxation of U.S. persons that are shareholders of PFICs that are not pedigreed QEFs.

(a) through (d) [Reserved]

(e) *Exempt organization as shareholder*—(1) *In general.* If the shareholder of a PFIC is an organization exempt from tax under this chapter, section 1291 and these regulations apply to such shareholder only if a dividend from the PFIC would be taxable to the organization under subchapter F.

(2) *Effective date.* Paragraph (e)(1) of this section is applicable on and after April 1, 1992.

[T.D. 8750, 63 FR 13, Jan. 2, 1998. Redesignated by T.D. 8870, 65 FR 5779, Feb. 7, 2000]

§ 1.1291-9 Deemed dividend election.

(a) *Deemed dividend election*—(1) *In general.* This section provides rules for making the election under section 1291(d)(2)(B) (deemed dividend election). Under that section, a shareholder (as defined in paragraph (j)(3) of this section) of a PFIC that is an unpedigreed QEF may elect to include in income as a dividend the shareholder's pro rata share of the post-1986 earnings and profits of the PFIC attributable to the stock held on the qualification date (as defined in paragraph (e) of this section), provided the PFIC is a controlled foreign corporation (CFC) within the meaning of section 957(a) for the taxable year for which the shareholder elects under section 1295 to treat the PFIC as a QEF (section 1295 election). If the shareholder makes the deemed dividend election, the PFIC will become a pedigreed QEF with respect to the shareholder. The deemed dividend is taxed under section 1291 as an excess distribution received on the qualification date. The excess distribution determined under this paragraph (a) is allocated under section 1291(a)(1)(A) only to those days in the shareholder's holding period during which the foreign corporation qualified

as a PFIC. For purposes of the preceding sentence, the holding period of the PFIC stock with respect to which the election is made ends on the day before the qualification date. For the definitions of PFIC, QEF, unpedigreed QEF, and pedigreed QEF, see paragraph (j) (1) and (2) of this section.

(2) *Post-1986 earnings and profits defined*—(i) *In general.* For purposes of this section, the term post-1986 earnings and profits means the undistributed earnings and profits, within the meaning of section 902(c)(1), as of the day before the qualification date, that were accumulated and not distributed in taxable years of the PFIC beginning after 1986 and during which it was a PFIC, but without regard to whether the earnings relate to a period during which the PFIC was a CFC.

(ii) *Pro rata share of post-1986 earnings and profits attributable to shareholder's stock*—(A) *In general.* A shareholder's pro rata share of the post-1986 earnings and profits of the PFIC attributable to the stock held by the shareholder on the qualification date is the amount of post-1986 earnings and profits of the PFIC accumulated during any portion of the shareholder's holding period ending at the close of the day before the qualification date and attributable, under the principles of section 1248 and the regulations under that section, to the PFIC stock held on the qualification date.

(B) *Reduction for previously taxed amounts.* A shareholder's pro rata share of the post-1986 earnings and profits of the PFIC does not include any amount that the shareholder demonstrates to the satisfaction of the Commissioner (in the manner provided in paragraph (d)(2) of this section) was, pursuant to another provision of the law, previously included in the income of the shareholder, or of another U.S. person if the shareholder's holding period of the PFIC stock includes the period during which the stock was held by that other U.S. person.

(b) *Who may make the election.* A shareholder of an unpedigreed QEF that is a CFC for the taxable year of the PFIC for which the shareholder makes the section 1295 election may make the deemed dividend election provided the shareholder held stock of