

**Internal Revenue Service, Treasury**

**§ 1.902-0**

Income tax rate .....	48%
U.S. tax .....	60,240

(b) Without taking this section into account, P would be allowed a foreign tax credit for 1971 of \$60,240 (\$60,240×\$125,500/\$125,500), and foreign income tax in the amount of \$3,910 ([\$39,150+\$22,500+\$2,500] less \$60,240) would first be carried back to 1969 under section 904(d).

(c) Pursuant to paragraph (a)(1) of this section, however, the foreign income tax allowable as a credit against the U.S. tax is reduced from \$64,150 to \$60,240, determined as follows:

Foreign income tax paid, and deemed to be paid, to country X on foreign mineral income (\$39,150+\$22,500+\$2,500) .....	\$64,150	
Less reduction under sec. 901(e):		
Smaller of \$64,150 (tax paid and deemed paid to country X on foreign mineral income) or \$64,560 (U.S. tax on foreign mineral income of \$134,500 (\$134,500×48%), determined by deducting cost depletion of \$5,000 in lieu of percentage depletion of \$14,000) .....	\$64,150	
Less: U.S. tax on foreign mineral income (before credit) .....	\$60,240	\$3,910
Foreign income tax allowable as a credit .....		60,240

(d) After taking this section into account, P is allowed a foreign tax credit for 1971 of \$60,240 (\$60,240×\$125,500/\$125,500), but no foreign income tax is carried back to 1969 under section 904(d) since the allowable credit of \$60,240 does not exceed the limitation of \$60,240.

[T.D. 7294, 38 FR 33074, Nov. 30, 1973, as amended by T.D. 7481, 42 FR 20130, Apr. 18, 1977]

**§ 1.902-0 Outline of regulations provisions for section 902.**

This section lists the provisions under section 902.

*§ 1.902-1 Credit for domestic corporate shareholder of a foreign corporation for foreign income taxes paid by the foreign corporation.*

- (a) Definitions and special effective date.
  - (1) Domestic shareholder.
  - (2) First-tier corporation.
  - (3) Second-tier corporation.
  - (4) Third-tier corporation.
  - (5) Example.
  - (6) Upper- and lower-tier corporations.
  - (7) Foreign income taxes.
  - (8) Post-1986 foreign income taxes.
    - (i) In general.
    - (ii) Distributions out of earnings and profits accumulated by a lower-tier corporation in its taxable years beginning before January 1, 1987, and included in the gross income of an upper-tier corporation in its taxable year beginning after December 31, 1986.

- (iii) Foreign income taxes paid or accrued with respect to high withholding tax interest.
- (9) Post-1986 undistributed earnings.
  - (i) In general.
  - (ii) Distributions out of earnings and profits accumulated by a lower-tier corporation in its taxable years beginning before January 1, 1987, and included in the gross income of an upper-tier corporation in its taxable year beginning after December 31, 1986.
  - (iii) Reduction for foreign income taxes paid or accrued.
  - (iv) Special allocations.
- (10) Pre-1987 accumulated profits.
  - (i) Definition.
  - (ii) Computation of pre-1987 accumulated profits.
  - (iii) Foreign income taxes attributable to pre-1987 accumulated profits.
- (11) Dividend.
- (12) Dividend received.
- (13) Special effective date.
  - (i) Rule.
    - (ii) Example.
- (b) Computation of foreign income taxes deemed paid by a domestic shareholder, first-tier corporation, and second-tier corporation.
  - (1) General rule.
  - (2) Allocation rule for dividends attributable to post-1986 undistributed earnings and pre-1987 accumulated profits.
    - (i) Portion of dividend out of post-1986 undistributed earnings.
    - (ii) Portion of dividend out of pre-1987 accumulated profits.
  - (3) Dividends paid out of pre-1987 accumulated profits.
  - (4) Deficits in accumulated earnings and profits.
  - (5) Examples.
- (c) Special rules.
  - (1) Separate computations required for dividends from each first-tier and lower-tier corporation.
    - (i) Rule.
    - (ii) Example.
  - (2) Section 78 gross-up.
    - (i) Foreign income taxes deemed paid by a domestic shareholder.
    - (ii) Foreign income taxes deemed paid by an upper-tier corporation.
    - (iii) Example.
  - (3) Creditable foreign income taxes.
  - (4) Foreign mineral income.
  - (5) Foreign taxes paid or accrued in connection with the purchase or sale of certain oil and gas.
  - (6) Foreign oil and gas extraction income.
  - (7) United States shareholders of controlled foreign corporations.
  - (8) Credit for foreign taxes deemed paid in a section 304 transaction.

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- (9) Effect of section 482 adjustments on post-1986 foreign income taxes and post-1986 undistributed earnings.
- (d) Dividends from controlled foreign corporations.
  - (1) General rule.
  - (2) Look-through.
  - (i) Dividends.
  - (ii) Coordination with section 960.
  - (3) Dividends distributed out of earnings accumulated before a controlled foreign corporation became a controlled foreign corporation.
    - (i) General rule.
    - (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.
- (e) Information to be furnished.
- (f) Examples.
- (g) Effective date.

*§ 1.902-2 Treatment of deficits in post-1986 undistributed earnings and pre-1987 accumulated profits of a first-, second-, or third-tier corporation for purposes of computing an amount of foreign taxes deemed paid § 1.902-1.*

- (a) Carryback of deficits in post-1986 undistributed earnings of a first-, second-, or third-tier corporation to pre-effective date taxable years.
  - (1) Rule.
  - (2) Examples.
- (b) Carryforward of deficits in pre-1987 accumulated profits of a first-, second-, or third-tier corporation to post-1986 undistributed earnings for purposes of section 902.
  - (1) General rule.
  - (2) Effect of pre-effective date deficit.
  - (3) Examples.

*§ 1.902-3 Credit for domestic corporate shareholder of a foreign corporation for foreign income taxes paid with respect to accumulated profits of taxable years of the foreign corporation beginning before January 1, 1987.*

- (a) Definitions.
  - (1) Domestic shareholder.
  - (2) First-tier corporation.
  - (3) Second-tier corporation.
  - (4) Third-tier corporation.
  - (5) Foreign income taxes.
  - (6) Dividend.
  - (7) Dividend received.
- (b) Domestic shareholder owning stock in a first-tier corporation.
  - (1) In general.
  - (2) Amount of foreign taxes deemed paid by a domestic shareholder.
- (c) First-tier corporation owning stock in a second-tier corporation.
  - (1) In general.

- (2) Amount of foreign taxes deemed paid by a first-tier corporation.
- (d) Second-tier corporation owning stock in a third-tier corporation.
  - (1) In general.
  - (2) Amount of foreign taxes deemed paid by a second-tier corporation.
- (e) Determination of accumulated profits of a foreign corporation.
- (f) Taxes paid on or with respect to accumulated profits of a foreign corporation.
- (g) Determination of earnings and profits of a foreign corporation.
  - (1) Taxable year to which section 963 does not apply.
  - (2) Taxable year to which section 963 applies.
  - (3) Time and manner of making choice.
  - (4) Determination by district director.
- (h) Source of income from first-tier corporation and country to which tax is deemed paid.
  - (1) Source of income.
  - (2) Country to which taxes deemed paid.
- (i) United Kingdom income taxes paid with respect to royalties.
- (j) Information to be furnished.
- (k) Illustrations.
  - (1) Effective date.

*§ 1.902-4 Rules for distributions attributable to accumulated profits for taxable years in which a first-tier corporation was a less developed country corporation.*

- (a) In general.
- (b) Combined distributions.
- (c) Distributions of a first-tier corporation attributable to certain distributions from second- or third-tier corporations.
- (d) Illustrations.

[T.D. 8708, 62 FR 927, Jan. 7, 1997]

**§ 1.902-1 Credit for domestic corporate shareholder of a foreign corporation for foreign income taxes paid by the foreign corporation.**

(a) *Definitions and special effective date.* For purposes of section 902, this section, and § 1.902-2, the definitions provided in paragraphs (a) (1) through (12) of this section and the special effective date of paragraph (a)(13) of this section apply.

(1) *Domestic shareholder.* In the case of dividends received by a domestic corporation from a foreign corporation after December 31, 1986, the term domestic shareholder means a domestic corporation, other than an S corporation as defined in section 1361(a), that owns at least 10 percent of the voting stock of the foreign corporation at the time the domestic corporation receives