

banks, cooperative banks, and domestic building and loan associations) shall not be considered as a dividend.

(b) *Dividends received from regulated investment companies.* In determining the deduction provided in section 243(a), dividends received from a regulated investment company shall be subject to the limitations provided in section 854.

(c) *Dividends received from real estate investment trusts.* See section 857(c) and paragraph (d) of §1.857-6 for special rules which deny a deduction under section 243 in the case of dividends received from a real estate investment trust with respect to a taxable year for which such trust is taxable under Part II, Subchapter M, Chapter 1 of the Code.

(d) *Dividends received on preferred stock of a public utility.* The deduction allowed by section 243(a) shall be determined without regard to any dividends described in section 244 (relating to dividends on the preferred stock of a public utility). That is, such deduction shall be determined without regard to any dividends received on the preferred stock of a public utility which is subject to taxation under Chapter 1 of the Code and with respect to which a deduction is allowed by section 247 (relating to dividends paid on certain preferred stock of public utilities). For a deduction with respect to such dividends received on the preferred stock of a public utility, see section 244. If a deduction for dividends paid is not allowable to the distributing corporation under section 247 with respect to the dividends on its preferred stock, such dividends received from a domestic public utility corporation subject to taxation under Chapter 1 of the Code are includible in determining the deduction allowed by section 243(a).

[T.D. 6598, 27 FR 4092, Apr. 28, 1962, as amended by T.D. 6992, 34 FR 817, Jan. 18, 1969; T.D. 7767, 46 FR 11264, Feb. 6, 1981]

**§ 1.243-3 Certain dividends from foreign corporations.**

(a) *In general.* (1) In determining the deduction provided in section 243(a), section 243(d) provides that a dividend received from a foreign corporation after December 31, 1959, shall be treated as a dividend from a domestic cor-

poration which is subject to taxation under chapter 1 of the Code, but only to the extent that such dividend is out of earnings and profits accumulated by a domestic corporation during a period with respect to which such domestic corporation was subject to taxation under Chapter 1 of the Code (or corresponding provisions of prior law). Thus, for example, if a domestic corporation accumulates earnings and profits during a period or periods with respect to which it is subject to taxation under Chapter 1 of the Code (or corresponding provisions of prior law) and subsequently such domestic corporation reincorporates in a foreign country, any dividends paid out of such earnings and profits after such reincorporation are eligible for the deduction provided in section 243(a) (1) and (2).

(2) Section 243(d) and this section do not apply to dividends paid out of earnings and profits accumulated (i) by a corporation organized under the China Trade Act, 1922, (ii) by a domestic corporation during any period with respect to which such corporation was exempt from taxation under section 501 (relating to certain charitable, etc. organizations) or 521 (relating to farmers' cooperative associations), or (iii) by a domestic corporation during any period to which section 931 (relating to income from sources within possessions of the United States) applied.

(b) *Establishing separate earnings and profits accounts.* A foreign corporation shall, for purposes of section 243(d), maintain a separate account for earnings and profits to which it succeeds which were accumulated by a domestic corporation, and such foreign corporation shall treat such earnings and profits as having been accumulated during the accounting periods in which earned by such domestic corporation. Such foreign corporation shall also maintain such a separate account for the earnings and profits, or deficit in earnings and profits, accumulated by it or accumulated by any other corporations to the earnings and profits of which it succeeds.

(c) *Effect of dividends on earnings and profits accounts.* Dividends paid out of the accumulated earnings and profits (see section 316(a)(1) of such foreign corporation shall be treated as having

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been paid out of the most recently accumulated earnings and profits of such corporation. A deficit in an earnings and profits account for any accounting period shall reduce the most recently accumulated earnings and profits for a prior accounting period in such account. If there are no accumulated earnings and profits in an earnings and profits account because of a deficit incurred in a prior accounting period, such deficit must be restored before earnings and profits can be accumulated in a subsequent accounting period. If a dividend is paid out of earnings and profits of a foreign corporation which maintains two or more accounts (established under the provisions of paragraph (b) of this section) with respect to two or more accounting periods ending on the same day, then the portion of such dividend considered as paid out of each account shall be the same proportion of the total dividend as the amount of earnings and profits in that account bears to the sum of the earnings and profits in all such accounts.

(d) *Illustration.* The application of the principles of this section in the determination of the amount of the dividends received deduction may be illustrated by the following example:

*Example.* On December 31, 1960, corporation X, a calendar-year corporation organized in the United States on January 1, 1958, consolidated with corporation Y, a foreign corporation organized on January 1, 1958, which used an annual accounting period based on the calendar year, to form corporation Z, a foreign corporation not engaged in trade or business within the United States. Corporation Z is a wholly-owned subsidiary of corporation M, a domestic corporation. On January 1, 1961, corporation Z's accumulated earnings and profits of \$31,000 are, under the provisions of paragraph (b) of this section, maintained in separate earnings and profits accounts containing the following amounts:

Earnings and profits accumulated for—	Domestic corp. X	Foreign corp. Y
1958 .....	(\$1,000)	\$11,000
1959 .....	10,000	9,000
1960 .....	5,000	(3,000)

Corporation Z had earnings and profits of \$10,000 in each of the years 1961, 1962, and 1963 and makes distributions with respect to its stock to corporation M for such years in the following amounts:

1961 .....	\$14,000
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1962 .....	23,000
1963 .....	16,000

(1) For 1961, a deduction of \$3,400 is allowable to M with respect to the \$14,000 distribution from Z, computed as follows:

(i) Dividend from current year earnings and profits (1961) .....	\$10,000
(ii) Dividend from earnings and profits of corporation X accumulated for 1960 .....	4,000
(iii) Deduction: 85 percent of \$4,000 (the amount distributed from the accumulated earnings and profits of corporation X) .....	3,400

(2) For 1962, a deduction of \$6,970 is allowable to corporation M with respect to the \$23,000 distribution from corporation Z, computed as follows:

(i) Dividend from current year earnings and profits (1962) .....	\$10,000
(ii) Dividend from earnings and profits of corporation X accumulated for:	
1960 .....	\$1,000
1959: \$9,000 (i.e., \$10,000 - \$1,000) divided by \$15,000 (i.e., \$9,000+\$9,000 - \$3,000) multiplied by \$12,000 (i.e., \$23,000 - \$11,000) .....	7,200
Total .....	8,200
(iii) Dividend from earnings and profits of corporation Y accumulated for:	
1959: \$6,000/\$15,000×\$12,000 .....	4,800
(iv) Deduction: 85 percent of \$8,200 (the amount distributed from the accumulated earnings and profits of corporation X) .....	6,970

(3) For 1963, a deduction of \$1,530 is allowable to M with respect to the \$16,000 distribution from Z, computed as follows:

(i) Dividend from current year earnings and profits (1963) .....	\$10,000
(ii) Dividend from earnings and profits of corporation X accumulated for 1959:	
Earnings and profits remaining after 1962 distribution (i.e., \$9,000 - \$7,200) .....	1,800
(iii) Dividend from earnings and profits of corporation Y accumulated for 1959:	
Earnings and profits remaining after 1962 distribution (i.e., \$6,000 - \$4,800) .....	1,200
1958 .....	8,000
(iv) Deduction: 85 percent of \$1,800 (the amount distributed from the accumulated earnings and profits of corporation X) .....	1,530

[T.D. 6830, 30 FR 8045, June 23, 1965]

§ 1.243-4 Qualifying dividends.

(a) *Definition of qualifying dividends—*

(1) *General.* For purposes of section 243(a)(3), the term *qualifying dividends* means dividends received by a corporation if:

(i) At the close of the day the dividends are received, such corporation is a member of the same affiliated group of corporations (as defined in paragraph (b) of this section) as the corporation distributing the dividends,