(iii) Assume that X Corporation intends to distribute the least amount which would satisfy the requirements of section 1247(a)(1)(A), as modified by the election under section 1247(f). Thus, the total amount X distributes is $607,500, which consists of the sum of (*a*) $459,000 actually distributed, that is, 90 percent of $510,000 of taxable income (determined after the deduction for foreign taxes), plus (*b*) foreign taxes paid of $148,500 which are treated as distributed, that is, 90 percent of $165,000 of foreign taxes paid by X Corporation.

Example 2. Assume the same facts as in example (1) except that X Corporation distributes the entire $510,000 in the following manner: On December 15, 1964, X Corporation distributes $170,000 as a dividend of $1.70 per share. On February 25, 1965, X Corporation distributes the remaining $340,000 as a dividend of $3.40 per share pursuant to an election under section 1247(a)(2)(B) to treat such distribution as if made in 1964. Assume that Brown, a qualified shareholder, uses the calendar year as his taxable year. The amount of $0.55 per share (that is, $165,000, multiplied by $1.70/$510,000) must be treated by Brown as foreign taxes paid by him in 1964 to country C and the amount of $1.10 per share (that is, $165,000 multiplied by $3.40/$510,000) must be similarly treated by Brown in 1965. The amount of $2.25 per share ($1.70 of dividends actually received plus $0.55 representing foreign taxes paid) must be reported by Brown as income considered received in 1964 from country C, and the amount of $4.50 per share ($3.40 of dividends actually received plus $1.10 representing foreign taxes paid) must be so reported by Brown in 1965.

Example 3. A foreign investment company organized under the laws of country C receives a dividend of $1,000 from X Corporation, which is also organized under the laws of country C. Under the laws of country C, the foreign investment company would, if it so elects, be considered as having paid income tax in the amount of $150 which X Corporation paid to country C with respect to the earnings from which the dividend was paid. If the foreign investment company were a domestic corporation, however, it would not be considered for purposes of section 901(b)(1) as having paid the tax actually paid by X Corporation. Accordingly, the election under section 1247(f) does not apply in respect of the $150. The result would be the same if X Corporation was organized under the laws of any other foreign country to which it paid taxes and if the laws of country C permitted the foreign investment company to be considered as the payor of such taxes.

(c) *Notice to shareholders*—(1) *In general.* If, in the manner provided in paragraph (d) of this section, a foreign investment company makes an election with respect to the foreign tax credit under section 1247(f), the company shall furnish to each shareholder a written notice mailed not later than 45 days after the close of the taxable year of the company for which the election is made, designating the shareholder's proportionate share of the foreign taxes referred to in paragraph (a)(2) of this section which were paid by the company during such taxable year. This notice may be combined with the written notice to shareholders described in paragraph (a)(3) of §1.1247–3 relating to excess capital gains.

(2) *Application to shareholder.* For purposes of paragraph (b)(2) of this section, the amount which a shareholder may treat as his proportionate share of foreign taxes paid by the company shall not exceed the amounts so designated by the company in such written notice. If, however, an amount designated by the company in a notice exceeds the shareholder's proper proportionate share of such foreign taxes, the shareholder is limited to the amount correctly determined.

(d) *Manner of making election*—(1) *In general.* The election of a foreign investment company to have section 1247(f) apply for a taxable year shall be made by filing as part of its information return required by paragraph (c)(1) of §1.1247–5 a Form 1118 modified so that it becomes a statement in support of the election made by the company under section 1247(f).

(2) *Irrevocability of election.* An election under section 1247(f) for a taxable year of a foreign investment company shall be made with respect to all foreign taxes referred to in paragraph (a)(2) of this section which were paid during such taxable year, and must be made not later than the time prescribed for filing the information return under paragraph (c)(1) of §1.1247–5. Such election, if made, shall be irrevocable with respect to the distributions, and the foreign taxes with respect thereto, to which the election applies.

[T.D. 6798, 30 FR 1177, Feb. 4, 1965]

§1.1247–5 Information and recordkeeping requirements.

(a) *General.* In order to carry out the purposes of section 1247, a foreign investment company shall keep the

records and comply with the information requirements prescribed by this section for each taxable year of the company for which the election under section 1247(a) is in effect. See section 1247(a)(1)(C).

(b) *Recordkeeping requirements.* The company shall maintain and preserve such permanent books of account, records, and other documents as are sufficient to establish in accordance with the provisions of §1.1247–2 what its taxable income would be if it were a domestic corporation. Generally, if the books and records of the company are maintained in the manner prescribed by regulations under section 30 of the Investment Company Act of 1940 (15 U.S.C. 80a–30), the requirements of the preceding sentence shall be considered satisfied. Such books, records, and other documents shall be available for inspection in the United States by authorized internal revenue officers or employees, and shall be maintained so long as the contents thereof may be material in the administration of section 1247.

(c) *Information returns.* The company shall file, for each taxable year during which the election under section 1247(a) is in effect, on or before the 15th day of the third month following the close of its taxable year or on or before May 1, 1965, whichever is later, with the Director of International Operations, Internal Revenue Service, Washington, DC, 20225:

(1) Form 1120, modified so as to be an annual information return, establishing the amount of its taxable income referred to in paragraph (b) of this section, and

(2) Form 2438, modified so as to be an annual information return, establishing the amount of the company's excess capital gains (referred to in paragraph (a)(1) of §1.1247–3) for the taxable year, the distributed portion thereof, and the amount of the undistributed portion thereof.

[T.D. 6798, 30 FR 1178, Feb. 4, 1965]

§1.1248–1 Treatment of gain from certain sales or exchanges of stock in certain foreign corporations.

(a) *In general.* (1) If a United States person (as defined in section 7701(a)(30)) recognizes gain on a sale or exchange after December 31, 1962, of stock in a foreign corporation, and if in respect of such person the conditions of subparagraph (2) of this paragraph are satisfied, then the gain shall be included in the gross income of such person as a dividend to the extent of the earnings and profits of such corporation attributable to such stock under §1.1248–2 or 1.1248–3, whichever is applicable, which were accumulated in taxable years of such foreign corporation beginning after December 31, 1962, during the period or periods such stock was held (or was considered as held by reason of the application of section 1223) by such person while such corporation was a controlled foreign corporation. See section 1248(a). For computation of earnings and profits attributable to such stock if there are any *lower tier* corporations, see paragraph (a) (3) and (4) of §1.1248–2 or paragraph (a) of §1.1248–3, whichever is applicable. In general, the amount of gain to be included in a person's gross income as a dividend under section 1248(a) shall be determined separately for each share of stock sold or exchanged. However, such determination may be made in respect of a block of stock if earnings and profits attributable to the block are computed under §1.1248–2 or 1.1248–3. See paragraph (b) of §1.1248–2 and paragraph (a)(5) of §1.1248–3. For the limitation on the tax attributable to an amount included in an individual's gross income as a dividend under section 1248(a), see section 1248(b) and §1.1248–4. For the treatment, under certain circumstances, of the sale or exchange of stock in a domestic corporation as the sale or exchange of stock held by the domestic corporation in a foreign corporation, see section 1248(e) and §1.1248–6. For the nonapplication of section 1248 in certain circumstances, see section 1248(f) and paragraph (e) of this section. For the requirement that the person establish the amount of earnings and profits attributable to the stock sold or exchanged and, for purposes of section 1248(b), the amount of certain taxes, see section 1248(g) and §1.1248–7.

(2) In respect of a United States person who sells or exchanges stock in a foreign corporation, the conditions referred to in subparagraph (1) of this paragraph are satisfied only if (i) such