

(g) *Treatment of holding period.* For purposes of applying sections 1291 through 1297 to the shareholder after the deemed sale, the shareholder's holding period of the stock of the PFIC begins on the qualification date, without regard to whether the shareholder recognized gain on the deemed sale. For other purposes of the Code and regulations, this holding period rule does not apply.

(h) *Election inapplicable to shareholder of former PFIC.* A shareholder may not make the section 1295 and deemed sale elections if the foreign corporation is a former PFIC (as defined in § 1.1291-9(j)(2)(iv)) with respect to the shareholder. For the rules regarding the election by a shareholder of a former PFIC, see § 1.1297-3T.

(i) *Effective date.* The rules of this section are applicable as of April 1, 1995.

[T.D. 8701, 61 FR 68153, Dec. 27, 1996]

#### § 1.1293-0 Table of contents.

This section contains a listing of the headings for § 1.1293-1.

##### *§ 1.1293-1 Current inclusion of income of qualified electing funds.*

- (a) In general. [Reserved]
- (1) Other rules. [Reserved]
- (2) Net capital gain defined.
  - (i) In general.
  - (ii) Effective date.
- (b) Other rules. [Reserved]
- (c) Application of rules of inclusion with respect to stock held by a pass through entity.
  - (1) In general.
  - (2) QEF stock transferred to a pass through entity.
    - (i) Pass through entity makes a section 1295 election.
    - (ii) Pass through entity does not make a section 1295 election.
  - (3) Effective date.

[T.D. 8750, 63 FR 13, Jan. 2, 1998; as amended by T.D. 8870, 65 FR 16319, Mar. 28, 2000]

#### § 1.1293-1 Current taxation of income from qualified electing funds.

- (a) *In general.* [Reserved]
- (1) *Other rules.* [Reserved]
- (2) *Net capital gain defined—(i) In general.* This paragraph (a)(2) defines the term net capital gain for purposes of sections 1293 and 1295 and the regulations under those sections. The QEF, as defined in § 1.1291-9(j)(2)(i), in deter-

mining its net capital gain for a taxable year, may either—

(A) Calculate and report the amount of each category of long-term capital gain provided in section 1(h) that was recognized by the PFIC in the taxable year;

(B) Calculate and report the amount of net capital gain recognized by the PFIC in the taxable year, stating that that amount is subject to the highest capital gain rate of tax applicable to the shareholder; or

(C) Calculate its earnings and profits for the taxable year and report the entire amount as ordinary earnings.

(ii) *Effective date.* Paragraph (a)(2)(i) of this section is applicable to sales by QEFs during their taxable years ending on or after May 7, 1997.

(b) *Other rules.* [Reserved]

(c) *Application of rules of inclusion with respect to stock held by a pass through entity—(1) In general.* If a domestic pass through entity makes a section 1295 election, as provided in paragraph (d)(2) of this section, with respect to the PFIC shares that it owns, directly or indirectly, the domestic pass through entity takes into account its pro rata share of the ordinary earnings and net capital gain attributable to the QEF shares held by the pass through entity. A U.S. person that indirectly owns QEF shares through the domestic pass through entity accounts for its pro rata shares of ordinary earnings and net capital gain attributable to the QEF shares according to the general rules applicable to inclusions of income from the domestic pass through entity. For the definition of pass through entity, see § 1.1295-1(j).

(2) *QEF stock transferred to a pass through entity—(i) Pass through entity makes a section 1295 election.* If a shareholder transfers stock subject to a section 1295 election to a domestic pass through entity of which it is an interest holder and the pass through entity makes a section 1295 election with respect to that stock, as provided in § 1.1295-1(d)(2), the shareholder takes into account its pro rata shares of the ordinary earnings and net capital gain attributable to the QEF shares under the rules applicable to inclusions of income from the pass through entity.

(ii) *Pass through entity does not make a section 1295 election.* If the pass through entity does not make a section 1295 election with respect to the PFIC, the shares of which were transferred to the pass through entity subject to the 1295 election of the shareholder, the shareholder continues to be subject, in its capacity as an indirect shareholder, to the income inclusion rules of section 1293 and reporting rules required of shareholders of QEFs. Proper adjustments to reflect an inclusion in income under section 1293 by the indirect shareholder must be made, under the principles of § 1.1291-9(f), to the basis of the indirect shareholder's interest in the pass through entity.

(3) *Effective date.* Paragraph (c) of this section is applicable to taxable years of shareholders beginning after December 31, 1997.

[T.D. 8750, 63 FR 14, Jan. 2, 1998. Redesignated and amended by T.D. 8870, 65 FR 5779, 5781, Feb. 7, 2000]

**§ 1.1294-0 Table of contents.**

This section contains a listing of the headings for § 1.1294-1T.

*§ 1.1294-1T Election to extend the time for payment of tax on undistributed earnings of a qualified electing fund.*

- (a) Purpose and scope.
- (b) Election to extend time for payment of tax.
  - (1) In general.
  - (2) Exception.
  - (3) Undistributed earnings.
    - (i) In general.
    - (ii) Effect of loan, pledge or guarantee.
    - (c) Time for making the election.
      - (1) In general.
      - (2) Exception.
      - (d) Manner of making the election.
        - (1) In general.
        - (2) Information to be included in the election.
          - (e) Termination of the extension.
          - (f) Undistributed PFIC earnings tax liability.
          - (g) Authority to require a bond.
          - (h) Annual reporting requirement.

[T.D. 8750, 63 FR 13, Jan. 2, 1998]

**§ 1.1294-1T Election to extend the time for payment of tax on undistributed earnings of a qualified electing fund (temporary).**

(a) *Purpose and scope.* This section provides rules for making the annual

election under section 1294. Under that section, a U.S. person that is a shareholder in a qualified electing fund (QEF) may elect to extend the time for payment of its tax liability which is attributable to its share of the undistributed earnings of the QEF. In general, a QEF is a passive foreign investment company (PFIC), as defined in section 1296, that makes the election under section 1295. Under section 1293, a U.S. person that owns, or is treated as owning, stock of a QEF at any time during the taxable year of the QEF shall include in gross income, as ordinary income, its pro rata share of the ordinary earnings of the QEF for the taxable year and, as long-term capital gain, its pro rata share of the net capital gain of the QEF for the taxable year. The shareholder's share of the earnings shall be included in the shareholder's taxable year in which or with which the taxable year of the QEF ends.

(b) *Election to extend time for payment—(1) In general.* A U.S. person that is a shareholder of a QEF on the last day of the QEF's taxable year may elect under section 1294 to extend the time for payment of that portion of its tax liability which is attributable to the inclusion in income pursuant to section 1293 of the shareholder's share of the QEF's undistributed earnings. The election under section 1294 may be made only with respect to undistributed earnings, and interest is imposed under section 6601 on the amount of the tax liability which is subject to the extension. This interest must be paid on the termination of the election.

(2) *Exception.* An election under this § 1.1294-1T cannot be made for a taxable year of the shareholder if any portion of the QEF's earning is includible in the gross income of the shareholder for such year under either section 551 (relating to foreign personal holding companies) or section 951 (relating to controlled foreign corporations).

(3) *Undistributed earnings—(i) In general.* For purposes of this § 1.1294-1T the term *undistributed earnings* means the excess, if any, of the amount includible in gross income by reason of section 1293(a) for the shareholder's taxable year (the includible amount) over the sum of (A) the amount of any distribution to the shareholder during the