



[4830-01-P]

Department of the Treasury

Internal Revenue Service

26 CFR Part 1

[TD 9882]

RIN 1545–BP19; 1545-BK55; 1545-AC09

Foreign Tax Credit Guidance Related to the Tax Cuts and Jobs Act, Overall Foreign Loss Recapture, and Foreign Tax Redeterminations; Correcting Amendment

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to Treasury Decision 9882, which was published in the **Federal Register** on Tuesday, December 17, 2019. Treasury Decision 9882 contained final and temporary regulations that provide guidance relating to the determination of the foreign tax credit under the Internal Revenue Code.

DATES: These corrections are effective on [**INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER**] and applicable December 17, 2019.

FOR FURTHER INFORMATION CONTACT: Jeffrey P. Cowan, (202) 317-4924 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 9882) that are the subject of this correction are under sections 861 and 904 of the Internal Revenue Code.

Need for Correction

As published December 17, 2019 (84 FR 69022), the final and temporary regulations (TD 9882; FR Doc. 2019-24848) contained errors that need to be corrected.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 ***

Par. 2. Section 1.861-8 is amended by revising the second and third sentence in paragraph (c)(4) and revising the first sentence in paragraph (e)(6)(i) to read as follows:

§ 1.861-8 Computation of taxable income from sources within the United States and from other sources and activities.

* * * * *

(c) * * *

(4) * * * In determining whether two or more corporations are members of the same controlled group under section 267(b)(3), a person is considered to own stock

owned directly by such person, stock owned by application of section 1563(e)(1), and stock owned by application of section 267(c). In determining whether a corporation is related to a partnership under section 267(b)(10), a person is considered to own the partnership interest owned directly by such person and the partnership interest owned by application of section 267(e)(3).

* * * * *

(e) * * *

(6) * * *

(i) * * * The deduction for foreign income, war profits and excess profits taxes allowed by section 164 (including with respect to a controlled foreign corporation) is allocated and apportioned among the applicable statutory and residual groupings under the principles of §1.904-6(a)(1)(i), (ii), and (iv). * * *

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Par. 3. Section 1.861-17 is amended by revising the first sentence in paragraph (e)(3) to read as follows:

§ 1.861-17 Allocation and apportionment of research and experimental expenditures.

* * * * *

(e) * * *

(3) * * * A taxpayer otherwise subject to the binding election described in paragraph (e)(1) of this section may change its method (on an original or an amended return) either for all taxable years beginning after December 31, 2017, and before

January 1, 2020, or for its last taxable year beginning before January 1, 2020, without the prior consent of the Commissioner. * * *

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§ 1.904-4 [Amended]

Par. 4. Section 1.904-4(c)(6)(iii) is amended by removing the language “deemed paid or accrued” and adding the language “deemed paid” in its place.

§ 1.904-5 [Amended]

Par. 5. Section 1.904-5 is amended by removing paragraph (c)(1)(ii).

§ 1.904(g)-0 [Amended]

Par. 6. Section 1.904(g)-0 is amended by adding “the” in the heading for §1.904(g)-3 before the word “recapture”.

Martin V. Franks
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