

Internal Revenue Code Section 1293(a)

Current taxation of income from qualified electing funds



(a) Inclusion.

(1) In general.

Every United States person who owns (or is treated under section 1298(a) as owning) stock of a qualified electing fund at any time during the taxable year of such fund shall include in gross income-

(A) as ordinary income, such shareholder's pro rata share of the ordinary earnings of such fund for such year, and

(B) as long-term capital gain, such shareholder's pro rata share of the net capital gain of such fund for such year.

(2) Year of inclusion.

The inclusion under paragraph (1) shall be for the taxable year of the shareholder in which or with which the taxable year of the fund ends.

(b) Pro rata share.

The pro rata share referred to in subsection (a) in the case of any shareholder is the amount which would have been distributed with respect to the shareholder's stock if, on each day during the taxable year of the fund, the fund had distributed to each shareholder a pro rata share of that day's ratable share of the fund's ordinary earnings and net capital gain for such year. To the extent provided in regulations, if the fund establishes to the satisfaction of the Secretary that it uses a shorter period than the taxable year to determine shareholders' interests in the earnings of such fund, pro rata shares may be determined by using such shorter period.

(c) Previously taxed amounts distributed tax free.

If the taxpayer establishes to the satisfaction of the Secretary that any amount distributed by a passive foreign investment company is paid out of earnings and profits of the company which were included under subsection (a) in the income of any United States person, such amount shall be treated, for purposes of this chapter, as a distribution which is not a dividend; except that such distribution shall immediately reduce earnings and profits. If the passive foreign investment company is a controlled foreign corporation (as defined in section 957(a)), the preceding sentence shall not apply to any United States shareholder (as defined in section 951(b)) in such corporation, and, in applying section 959 to any such shareholder, any inclusion under this section shall be treated as an inclusion under section 951(a)(1)(A) .

(d) Basis adjustments.

The basis of the taxpayer's stock in a passive foreign investment company shall be-

(1) increased by any amount which is included in the income of the taxpayer under subsection (a) with respect to such stock, and

(2) decreased by any amount distributed with respect to such stock which is not includible in the income of the taxpayer by reason of subsection (c) .

A similar rule shall apply also in the case of any property if by reason of holding such property the taxpayer is treated under section 1298(a) as owning stock in a qualified electing fund.

(e) Ordinary earnings.

For purposes of this section -

(1) Ordinary earnings.

The term "ordinary earnings" means the excess of the earnings and profits of the qualified electing fund for the taxable year over its net capital gain for such taxable year.

(2) Limitation on net capital gain.

A qualified electing fund's net capital gain for any taxable year shall not exceed its earnings and profits for such taxable year.

(3) Determination of earnings and profits.

The earnings and profits of any qualified electing fund shall be determined without regard to paragraphs (4) , (5) , and (6) of section 312(n) . Under regulations, the preceding sentence shall not apply to the extent it would increase earnings and profits by an amount which was previously distributed by the qualified electing fund.

(f) Foreign tax credit allowed in the case of 10-percent corporate shareholder.

For purposes of section 960 -

(1) any amount included in the gross income under subsection (a) shall be treated as if it were included under section 951(a) ,

(2) any amount excluded from gross income under subsection (c) shall be treated in the same manner as amounts excluded from gross income under section 959 , and

(3) a domestic corporation which owns (or is treated under section 1298(a) as owning) stock of a qualified electing fund shall be treated in the same manner as a United States shareholder of a controlled foreign corporation (and such qualified electing fund shall be treated in the same manner as such controlled foreign corporation) if such domestic corporation meets the stock ownership requirements of subsection (a) or (b) of section 902 (as in effect before its repeal) with respect to such qualified electing fund.

(g) Other special rules.

(1) Exception for certain income.

For purposes of determining the amount included in the gross income of any person under this section , the ordinary earnings and net capital gain of a qualified electing fund shall not include any item of income received by such fund if-

(A) such fund is a controlled foreign corporation (as defined in section 957(a)) and such person is a United States shareholder (as defined in section 951(b)) in such fund, and

(B) such person establishes to the satisfaction of the Secretary that-

(i) such income was subject to an effective rate of income tax imposed by a foreign country greater than 90 percent of the maximum rate of tax specified in section 11 , or

(ii) such income is-

(I) from sources within the United States,

(II) effectively connected with the conduct by the qualified electing fund of a trade or business in the United States, and

(III) not exempt from taxation (or subject to a reduced rate of tax) pursuant to a treaty obligation of the United States.

(2) Prevention of double inclusion.

The Secretary shall prescribe such adjustment to the provisions of this section as may be necessary to prevent the same item of income of a qualified electing fund from being included in the gross income of a United States person more than once.