

### Internal Revenue Code Section 953(d)

#### Insurance income

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 (d) Election by foreign insurance company to be treated as domestic corporation.

(1) In general.

If-

(A) a foreign corporation is a controlled foreign corporation (as defined in section 957(a) by substituting "25 percent or more" for "more than 50 percent" and by using the definition of United States shareholder under 953(c)(1)(A)),

(B) such foreign corporation would qualify under part I or II of subchapter L for the taxable year if it were a domestic corporation,

(C) such foreign corporation meets such requirements as the Secretary shall prescribe to ensure that the taxes imposed by this chapter on such foreign corporation are paid, and

(D) such foreign corporation makes an election to have this paragraph apply and waives all benefits to such corporation granted by the United States under any treaty,

for purposes of this title, such corporation shall be treated as a domestic corporation.

(2) Period during which election is in effect.

(A) In general. Except as provided in subparagraph (B) , an election under paragraph (1) shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

(B) Termination. If a corporation which made an election under paragraph (1) for any taxable year fails to meet the requirements of subparagraphs (A) , (B) , and(C) , of paragraph (1) for any subsequent taxable year, such election shall not apply to any taxable year beginning after such subsequent taxable year.

(3) Treatment of losses.

If any corporation treated as a domestic corporation under this subsection is treated as a member of an affiliated group for purposes of chapter 6 (relating to consolidated returns), any loss of such corporation shall be treated as a dual consolidated loss for purposes of section 1503(d) without regard to paragraph (2)(B) thereof .

(4) Effect of election.

(A) In general. For purposes of section 367 , any foreign corporation making an election under paragraph (1) shall be treated as transferring (as of the 1st day of the 1st taxable year to which such election applies) all of its assets to a domestic corporation in connection with an exchange to which section 354 applies.

(B) Exception for pre-1988 earnings and profit.

(i) In general. Earnings and profits of the foreign corporation accumulated in taxable years beginning before January 1, 1988, shall not be included in the gross income of the persons holding stock in such corporation by reason of subparagraph (A) .

(ii) Treatment of distributions. For purposes of this title, any distribution made by a corporation to which an election under paragraph (1) applies out of earnings and profits accumulated in taxable years beginning before January 1, 1988, shall be treated as a distribution made by a foreign corporation.

(iii) Certain rules to continue to apply to pre-1988 earnings. The provisions specified in clause (iv) shall be applied without regard to paragraph (1) , except that, in the case of a corporation to which an election under paragraph (1) applies, only earnings and profits accumulated in taxable years beginning before January 1, 1988, shall be taken into account.

(iv) Specified provisions. The provisions specified in this clause are:

(I) Section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporations).

(II) Subpart F of part III of subchapter N to the extent such subpart relates to earnings invested in United States property or amounts referred to in clause (ii) or (iii) of section 951(a)(1)(A) .

(III) Section 884 to the extent the foreign corporation reinvested 1987 earnings and profits in United States assets.

(5) Effect of termination.

For purposes of section 367 , if-

(A) an election is made by a corporation under paragraph (1) for any taxable year, and

(B) such election ceases to apply for any subsequent taxable year,

such corporation shall be treated as a domestic corporation transferring (as of the 1st day of such subsequent taxable year) all of its property to a foreign corporation in connection with an exchange to which section 354 applies.

(6) Additional tax on corporation making election.

(A) In general. If a corporation makes an election under paragraph (1) , the amount of tax imposed by this chapter for the 1st taxable year to which such election applies shall be increased by the amount determined under subparagraph (B) .

(B) Amount of tax. The amount of tax determined under this paragraph shall be equal to the lesser of-

(i)  $\frac{3}{4}$  of 1 percent of the aggregate amount of capital and accumulated surplus of the corporation as of December 31, 1987, or

(ii) \$1,500,000.

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