

Partial Withdrawal of Proposed Regulations Relating to the Application of Section 904 to Income Subject to Separate Limitations and Computation of Deemed-Paid Credit Under Section 902

Announcement 2004-64

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Partial withdrawal of notice of proposed rulemaking.

SUMMARY: This document withdraws a portion of a notice of proposed rulemaking (REG-104683-00, 2001-1 C.B. 407) published on January 3, 2001, relating to the application of the foreign tax credit limitation under section 904 and the deemed-paid credit under section 902.

DATES: The withdrawal of proposed §§1.902-0, 1.902-1 and 1.904-4(g) is made on July 20, 2004.

FOR FURTHER INFORMATION CONTACT: Bethany A. Ingwalsen, (202) 622-3850 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On January 3, 2001, the Treasury Department and the IRS published in the **Federal Register** (66 FR 319) a notice of proposed rulemaking (REG-104683-00) providing guidance with respect to the application of sections 902 and 904. Written comments were received and a public hearing on the proposed regulations was held on April 26, 2001. After consideration of the comments received, the Treasury Department and the IRS are withdrawing the portions of the proposed regulations that would have amended §§1.902-1 and 1.904-4(g). The amendments to §1.902-1 would have terminated the pooling of a foreign corporation's post-1986 undistributed earnings and foreign income taxes if the ownership requirements of section 902(c)(3)(B) were not met as of the end of any taxable year. The amendments to §1.904-4(g) would have disallowed look-through treatment for a dividend

paid by a CFC or noncontrolled section 902 corporation out of E&P accumulated while the corporation was a look-through entity (*i.e.*, the corporation was a CFC or, for tax years beginning after December 31, 2002, a noncontrolled section 902 corporation) if paid after an intervening period during which the corporation was a non-look-through entity (*i.e.*, a less-than 10%-U.S.-owned corporation or, for tax years beginning on or before December 31, 2002, a noncontrolled section 902 corporation).

Final regulations (T.D. 9141) adopting the remaining portions of the proposed regulations are being published in this issue of the Bulletin. See the preamble to the final regulations for a discussion of the reasons §§1.902-1 and 1.904-4(g) are being withdrawn.

Drafting Information

The principal author of this withdrawal notice is Bethany A. Ingwalsen, Office of Associate Chief Counsel (International). However, other personnel from the Treasury Department and the IRS participated in its development.

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Partial Withdrawal of a Notice of Proposed Rulemaking

Accordingly, under the authority of 26 U.S.C. 7805, §§1.902-0, 1.902-1 and 1.904-4(g) of the notice of proposed rulemaking published in the **Federal Register** (66 FR 319) on January 3, 2001, are withdrawn.

Mark E. Matthews,
*Deputy Commissioner for
Services and Enforcement.*

(Filed by the Office of the Federal Register on July 19, 2004, 8:45 a.m., and published in the issue of the Federal Register for July 20, 2004, 69 F.R. 43366)