

957(a)) (CFC) will not be treated as a PFIC with respect to a U.S. shareholder (as defined in section 951(b)) of the CFC. After a shareholder ceases to qualify for this exception, because the shareholder ceases to be subject to subpart F, generally the shareholder will have a new holding period for purposes of the PFIC provisions pursuant to section 1296(e)(3)(A). However, pursuant to section 1296(e)(3)(B), if the foreign corporation was a nonqualified fund before the shareholder qualified for this exception, and the shareholder did not make the section 1297(b)(1) election to purge the stock of its PFIC taint, the shareholder will not get a new holding period when it ceases to qualify for the exception for U.S. shareholders of CFCs. Congress, in the Conference Report to the 1997 TRA, H.R. Rept. 105-220, 105th Congress, 1st session, at 625, stated that "the stock held by such shareholder continues to be treated as PFIC stock unless the shareholder makes an election to pay tax and an interest charge with respect to the unrealized appreciation in the stock or the accumulated earnings of the corporation." Congress thus indicated its intent that a shareholder may apply the rules of either section 1291(d)(2)(A), the deemed sale election, or section 1291(d)(2)(B), the deemed dividend election, when making the section 1297(b)(1) election to purge a former PFIC of its PFIC taint. In order to give effect to that intent, Treasury and the IRS have decided to remove § 1.1291-9(i)(1), which provides that the rules of § 1.1291-9, the deemed dividend election, do not apply to an election under section 1297(b)(1). The removal of § 1.1291-9(i)(1) is effective as of January 2, 1998. Section 1.1291-9(i)(2) is not affected by the removal of § 1.1291-9(i)(1).

8. Section 1297

The temporary regulations amend § 1.1297-3T to provide that a shareholder of a former PFIC, within the meaning of § 1.1291-9(j)(2)(iv), that was a CFC during its last taxable year as a PFIC under section 1296(a), may apply the rules of the deemed dividend election under section 1291(d)(2)(B) and § 1.1291-9 to its section 1297(b)(1) election made by the time and in the manner provided in § 1.1297-3T(b). If the time for making a section 1297(b)(1) election, provided in § 1.1297-3T(b), expired before January 2, 1998, a shareholder that applied the rules of section 1291(d)(2)(A) and § 1.1291-10 to a section 1297(b)(1) election, made with respect to a former PFIC that was a CFC in its last taxable year as a PFIC under section 1296(a), may file an amended

return for its taxable year that includes the termination date, as defined in § 1.1297-3T(a), and apply the rules of the deemed dividend election to its section 1297(b)(1) election at any time before the expiration of the period of limitations for the assessment of taxes for that taxable year. Section 1.1297-3T(c) is effective as of January 2, 1998.

Special Analyses

It has been determined that this Treasury Decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business. An initial regulatory flexibility analysis has been prepared for the proposed regulations for which these temporary regulations serve as a text and which is set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**.

Drafting Information

The principal authors of these regulations are Gayle Novig and Judith Cavell Cohen, of the Office of the Associate Chief Counsel (International). Other personnel from the IRS and Treasury Department also participated in the development of these regulations.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding the following entries, in numerical order to read as follows:

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

Section 1.1291-1T also issued under 26 U.S.C. 1291.* * *

Section 1.1293-1T also issued under 26 U.S.C. 1293.* * *

Section 1.1295-1T also issued under 26 U.S.C. 1295(b).

Section 1.1295-3T also issued under 26 U.S.C. 1295(b).* * *

§ 1.1291-0 [Amended]

Par. 2. Section 1.1291-0 is amended by removing and reserving the entry for § 1.1291-9(i)(1).

Par. 3. The section heading and introductory text for § 1.1294-0 are added to read as follows:

§ 1.1294-0 Table of contents.

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

Par. 4. The section heading and introductory text for § 1.1297-0 are added to read as follows:

§ 1.1297-0 Table of contents.

This section contains a listing of the headings for § 1.1297-3T.

§ 1.1291-0T [Amended]

Par. 5. Section 1.1291-0T is amended by:

1. Transferring the listing of the section heading and entries for § 1.1294-1T to new § 1.1294-0.

2. Transferring the listing of the section heading and entries for § 1.1297-3T to new § 1.1297-0.

3. Removing the section heading and introductory text.

Par. 6. Section 1.1291-1T is added to read as follows:

§ 1.1291-1T Taxation of U.S. persons that are shareholders of PFICs that are not pedigreed QEFs (temporary).

(a) through (d) [Reserved].

(e) *Exempt organization as shareholder*—(1) *In general.* If the shareholder of a PFIC is an organization exempt from tax under this chapter, section 1291 and these regulations apply to such shareholder only if a dividend from the PFIC would be taxable to the organization under subchapter F.

(2) *Effective date.* Paragraph (e)(1) of this section is applicable on and after April 1, 1992.

§ 1.1291-9 [Amended]

Par. 7. Section 1.1291-9 is amended by removing and reserving paragraph (i)(1).

Par. 8. Section 1.1293-0 is added to read as follows.

§ 1.1293-0 Table of contents.

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

§ 1.1293-1T Current inclusion of income of qualified electing funds (temporary).

(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.*